

ESTTA Tracking number: **ESTTA286774**

Filing date: **05/29/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91176744
Party	Plaintiff DC Comics and Marvel Characters, Inc.
Correspondence Address	Jonathan D. Reichman Kenyon & Kenyon, LLP One Broadway New York, NY 10004 UNITED STATES mmorris@kenyon.com, jreichman@kenyon.com, mmarsh@kenyon.com, plum@kenyon.com, rcollins@kenyon.com
Submission	Motion for Summary Judgment
Filer's Name	Michelle C. Morris
Filer's e-mail	mmorris@kenyon.com, jreichman@kenyon.com, mmarsh@kenyon.com, rcollins@kenyon.com
Signature	/Michelle C. Morris/
Date	05/29/2009
Attachments	JDR Ex A-Silver Dep.pdf ( 190 pages )(971098 bytes )

# **EXHIBIT A**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

DC COMICS and  
MARVEL CHARACTERS, INC.,

CERTIFIED COPY

Opposers,

-vs-

Opposition No. 91/176,744  
Application No. 78/823,155  
Mark: SUPER HERO

MICHAEL CRAIG SILVER,

Applicant.

DEPOSITION OF MICHAEL CRAIG SILVER

PAGES 1 to 168

MONDAY, FEBRUARY 23, 2009

Reported by: LOUISE MARIE SOUSOURES, CSR NO. 3575

Certified LiveNote Reporter



GROSSMAN & COTTER  
CERTIFIED COURT REPORTERS

Comp-U-Scripts      Weber & Volzing

117 S. California Avenue, #D-201 • Palo Alto, CA 94306  
PHONE 650.321.609      FAX 650.321.609

A P P E A R A N C E S

FOR THE OPPOSERS:

KENYON & KENYON LLP

BY: VICTOR J. CASTELLUCCI,

ATTORNEY AT LAW

333 W. SAN CARLOS STREET

SAN JOSE, CA 95110

408.975.7500

vcastellucci@kenyon.com

## I N D E X

## EXAMINATION BY: PAGE

MR. CASTELLUCCI 5

## EXHIBITS: PAGE

1 Document entitled "Trademark/service  
mark application, principal register" 9

2 Document entitled "Maiden Waves  
Sunscreen" 59

3 Opposer's first set of interrogatories  
to applicant 95

4 Applicant's response to opposer's first  
set of interrogatories 95

5 Applicant's amended/supplemental  
responses to interrogatory Nos. 1  
through 27 95

6 Opposer's first set of requests for  
admission to applicant 116

7 Applicant's response to opposer's first  
set of requests for admission 117

8 Opposer's first request for production  
of documents to applicant 122

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X (CONTINUED)

EXHIBIT	PAGE
9      Applicant's response to opposer's first request for production of documents	122
10     Applicant's amended/supplemental responses to opposer's document request Nos. 1 through 14, 16 through 30 and 35	122

1           BE IT REMEMBERED that, pursuant to Notice of  
2 Taking Deposition, commencing at the hour of 10:05  
3 a.m. thereof, at the Law Offices of Kenyon & Kenyon,  
4 333 W. San Carlos Street, San Jose, California,  
5 before me, LOUISE MARIE SOUSOURES, a Certified  
6 Shorthand Reporter, there personally appeared

7           MICHAEL CRAIG SILVER,  
8 called as a witness by the Opposers, and who, being  
9 duly sworn, was thereupon examined and testified as  
10 hereinafter set forth.

11           EXAMINATION BY MR. CASTELLUCCI:

12           Q. Good morning.

13           A. Good morning.

14           Q. Thanks for coming.

15           A. Pleasure.

16           Q. Have you ever been deposed before?

17           A. I have not.

18           Q. Okay. Are you familiar with the process or  
19 you think you're familiar with the process?

20           A. A little bit.

21           Q. Okay. Let's go over a bit about the  
22 process.

23           I ask a bunch of questions and you are under  
24 oath to answer the questions as truthfully as you can  
25 to the best of your ability.

1                   And you understand that?

2                   A. I understand it and I intend on doing  
3 exactly that as I have done throughout the  
4 proceedings.

5                   Q. Perfect.

6                   Two requests; one is for the reporter and  
7 one is for me.

8                   Please answer verbally so that the reporter  
9 can record the answer.

10                  A. No problem.

11                  Q. And one is for me, if you don't understand a  
12 question, if you don't think you know what I'm  
13 getting at, please ask for clarification and I'll do  
14 the best I can to make sure you understand where I'm  
15 coming from.

16                  A. Real good, thanks, appreciate that.

17                  Q. Okay. Are you currently employed?

18                  A. Self-employed.

19                  Q. Self-employed, okay.

20                  What's your occupation?

21                  A. I have been a broker, real estate broker,  
22 mortgage broker and other self-employed business  
23 enterprises such as T-shirts and other side  
24 businesses I've tried to propagate and germinate.

25                  Q. Okay. In parallel with each other or are



1 you currently operating in multiple industries?

2 A. Well, let me try to understand exactly.

3 Yes, I guess it would be different  
4 industries, yes.

5 Q. Okay. So let's take a -- let's look at the  
6 real estate mortgage broker industry.

7 A. Right.

8 Q. How long have you been doing that?

9 A. About eight years.

10 Q. Okay. Have you been self-employed for those  
11 eight years or did you start off at a company and  
12 then branch out on your own?

13 A. I spent about one year, my first year,  
14 always had my own broker's license, so thereby being  
15 an individual, independent contractor, I guess,  
16 always, and then so learned the business, I guess,  
17 with -- under another brokerage's license and  
18 independent since then.

19 Q. Okay. And there are licensing requirements  
20 for that business?

21 A. There are.

22 Q. And you have a -- all the necessary  
23 licenses?

24 A. Correct.

25 Q. And how long have you had those?

1           A. Well, I can't be certain, because I don't  
2 have the paper work in front of me, but I would think  
3 since 2001.

4           Q. So about eight years?

5           A. I think so, yeah. Again, I don't know how  
6 precise and exactamundo we need to be here.

7           Q. Your answer's good enough.

8                       So what are your -- where are your  
9 responsibilities in your current capacity as an  
10 independent real estate broker?

11          A. As defined by, I guess, all real estate  
12 brokers, numerous job functions as a business owner.

13                       Now, I'm happy to answer all the questions,  
14 but just try to make sure we're addressing relevant  
15 questions in regards to the issues going on.

16                       There's, I guess, some reason you're asking  
17 me my business occupation and so I can understand why  
18 we're addressing and digging through, I guess, some  
19 of my other enterprises or whatever the nature may  
20 be.

21          Q. That's fair.

22                       I'd like to talk about some of the other  
23 enterprises.

24                       Maybe this would be a good time, for  
25 definitional purposes, maybe this would be a good

1 time to mark Exhibit 1.

2 MR. CASTELLUCCI: I'm going to mark this as  
3 Exhibit 1.

4 (Exhibit No. 1 was marked.)

5 BY MR. CASTELLUCCI:

6 Q. What you're getting --

7 A. Again, my intention is to be efficient with  
8 your time, my time and the board's time, so trying to  
9 make sure we're addressing things so I don't want to  
10 waste your time because I have other obligations and  
11 I'm always working long hours, hard hours and want to  
12 make sure we're addressing the --

13 Q. I understand, as an independent businessman,  
14 you've got obligations.

15 So what that document is that's been marked  
16 as Exhibit 1 is a six-page document, it's up in the  
17 upper left-hand corner you might see it's a form 1478  
18 revision 6, 2005?

19 A. Uh-huh.

20 Q. This document has been printed from the  
21 PTO's web site concerning trademark application  
22 78823155.

23 Please take a moment to review it and let me  
24 know when you've had a chance to look at it all.

25 A. Okay. I have reviewed it.

1           Q.   So does the information in those data  
2 fields, does that look accurate to you?

3           A.   Yes, it does.

4           Q.   And that's a printed version of your  
5 trademark application, correct?

6           A.   It seems to be.

7           Q.   Okay. I would like to turn your attention  
8 to page 2 of that document, Exhibit 1.

9           A.   Okay.

10          Q.   In the description field -- in the left  
11 column, there's a description field, in the right  
12 column, there's a description of goods, products in  
13 international class 003, correct?

14          A.   Uh-huh.

15          Q.   After sun screens -- excuse me, after sun  
16 creams, beauty creams for body care, cosmetic  
17 products in the form of aerosols for skin care,  
18 nonmedicated suncare preparations, skin moisturizer,  
19 skin toners, sunblock, suncare lotions, sunscreen,  
20 suntan oil and sunblock lotions, correct?

21          A.   Correct.

22          Q.   So going forward, when I make reference to  
23 the Class 3 products, can we agree that's what we're  
24 talking about?

25          A.   Yes.

1 Q. Perfect.

2 A. Thanks for explaining.

3 Q. Sure. So moving away from this document for  
4 a minute and back to your background, what you've  
5 explained is that you're an independent real estate  
6 broker and mortgage broker?

7 A. Entrepreneur is what I would explain myself  
8 as. Looking for other businesses and trying to make  
9 a living.

10 Q. In what ways are your experiences in your  
11 current capacity as an entrepreneur related in any  
12 way to the manufacture, marketing and sales of Class  
13 3 products?

14 A. Right. Well, I'd have to say it's  
15 independent research, my ability to get caught up to  
16 speed, so to say, with an industry, I guess, or see  
17 opportunity, potentially, and business management to  
18 some respect.

19 Q. Okay. Anything else comes to mind?

20 A. Not immediately. I'm sure there could be,  
21 but try not to be exhaustive here with your time.

22 Q. Okay. That's fair.

23 What industries have you worked in  
24 besides -- so you said real estate, mortgage broker,  
25 you said clothing?

1           A.   Right.

2           Q.   Anything else?

3           A.   Well, you know, throughout my education and  
4   schooling, I guess, as far as trying to, again, earn  
5   a living, I've had lots of temporary jobs, of course,  
6   and there's a wide variety of, I guess, jobs that  
7   I've done in the past and then helping with, I guess,  
8   family business to try to propagate that business and  
9   some other aspects.

10          Q.   What is the family business?

11          A.   A beverage business.

12          Q.   Beverage manufacturing, beverage  
13   distribution?

14          A.   Correct, beverage manufacturing.

15          Q.   And would it be -- would it be safe to say  
16   that your experiences with independently owned and  
17   operated businesses has helped you develop the skills  
18   that you need to manufacture and market and sell  
19   Class 3 products?

20          A.   I wouldn't be able to say absolutely, but as  
21   an entrepreneur, you have to be -- at least I feel I  
22   have to be optimistic and be assertive to try to do  
23   something. Otherwise I would just be not being  
24   proactive, I guess.

25          Q.   And one of the things that I think you

1 indicated as helping be proactive is you've developed  
2 a sense of how to conduct independent research and  
3 how to -- how to see opportunities as they develop;  
4 is that correct?

5 A. Well, I think that is fair to say, you know.

6 I'm -- you know, you read the newspaper and  
7 that's an education right there, if you read it often  
8 enough.

9 So it's really a matter of hearing people  
10 speak and I think just common sense, really, what it  
11 comes down to.

12 Q. Okay. If -- thank you.

13 If we could just be a little more precise  
14 about either the positions that you've had or the  
15 particular businesses that you've owned and operated  
16 in the past, that would be help, if you will, for me  
17 to understand how this all fits together.

18 So we've got mortgage and real estate  
19 brokerage, we've got clothing manufacture, got  
20 beverage manufacture?

21 A. Right. Beverage, I was not an employee, so  
22 to say. I'm not very -- wasn't very active. It was  
23 another family member's business, but, of course,  
24 being the family, I hear what's happening.

25 Q. Okay. So in terms of your personal

1 experience, what businesses have you helped to run,  
2 what businesses have you started in the past?

3 A. Right. Well, I had, as I said, a T-shirt  
4 business and that involved production, production, I  
5 would imagine similar, I consider it a skill that's  
6 cross-referenced maybe with my T-shirts of conceiving  
7 the idea, conceiving maybe the opportunity and then  
8 trying to produce the product and meaning pulling  
9 together different aspects of the production of the  
10 product.

11 Q. Okay. So anything other than -- anything  
12 other than T-shirts -- in terms of your business  
13 activity, do you have businesses other than one that  
14 engages in production of T-shirts?

15 A. I'm just trying to think past my history  
16 about temporary employment.

17 Are you talking about self employment?

18 Q. I'm talking about both.

19 A. So, sorry, rephrase your question or say it  
20 again.

21 MR. CASTELLUCCI: Could you read back the  
22 question, please?

23 (The record was read by the Reporter.)

24 BY MR. CASTELLUCCI:

25 Q. Do you have businesses or have you worked in



1 a business as an employee --

2 A. Right.

3 Q. -- in businesses other than the one that  
4 you're currently talking about with respect to  
5 producing T-shirts?

6 A. Right. Well, as I mentioned before, I've  
7 done lots of temporary jobs.

8 Q. Right.

9 A. Through college and stuff.

10 And so again, I'm missing your question, I  
11 guess. What exactly -- what other jobs pertain to  
12 the T-shirt business, was that it?

13 Q. No, my question was more directed at the  
14 nature of the business as opposed to the nature of  
15 the job.

16 A. Right.

17 Q. Are there additional businesses that you own  
18 that are directed to something other than the  
19 manufacture of T-shirt or production, I think as you  
20 called it, of T-shirts?

21 A. Right. Or business activities.

22 Q. Business activities or employment  
23 experience.

24 A. Right. Well, with the mortgage business, it  
25 has to do with kind of selling a product. Even

1     though it's not a tangible product, it's a loan, and  
2     that's, as a business owner, you have to advertise  
3     for it which I've done, you have to have a type of  
4     production, production is the processing of a loan,  
5     meaning you have to recognize what the product is and  
6     then put it through a manufacturing line, so to say,  
7     to finalize that loan.

8                 So in that respect, yes, it is a  
9     manufacturing process, I would think, if that's the  
10    type of comparison you're considering.

11                Q.   In an abstract sort of way?

12                A.   Right.

13                Q.   Okay.

14                A.   It's a matter of putting different parts --  
15   pieces together.

16                Q.   I understand.  When you embarked on the  
17   T-shirt production business, did you form a company?

18                A.   I did.

19                Q.   What's the name of that company?

20                A.   The name of that company is Waveworks Maiden  
21   Waves.

22                And previously before that, the T-shirt  
23   company was West Clay Industries, same type of  
24   business enterprise of T-shirts.

25                Q.   Do you recall when you formed that

1 corporation -- is it a corporation?

2 A. It's not.

3 Q. Is it a limited --

4 A. Sole proprietorship.

5 Q. Sole proprietorship?

6 A. Correct.

7 Q. And are there licensing requirements for a  
8 sole proprietorship?

9 A. Correct.

10 Q. Did you register with the State of  
11 California?

12 A. Correct. Well, I don't know if it was with  
13 the State. The State, I think, would probably be  
14 maybe with corporations, but I think it's with --  
15 well, with the County.

16 Q. Do you recall what County that was?

17 A. Well, West Clay Industries was for San  
18 Francisco.

19 And Waveworks should be with Placer County.

20 Q. East somewhere?

21 A. It's up in the Tahoe, Lake Tahoe area.

22 Q. Okay. And with respect to your mortgage  
23 broker business, your real estate broker business,  
24 did you incorporate for purposes --

25 A. It is incorporated.

1 Q. That is incorporated?

2 A. Yes, it is.

3 Q. Where is it incorporated?

4 A. In California.

5 Q. Let's go back.

6 With respect to West Clay Industries and  
7 Waveworks Maiden Waves, did I ask you -- do you  
8 recall when you -- when you started -- when you  
9 registered with these respective counties?

10 A. West Clay Industries was first and maybe it  
11 was in '95.

12 And Waveworks Maiden Waves was maybe '97,  
13 '98, I'm not certain.

14 Q. That's a pretty good approximation, as far  
15 as you recall?

16 A. I think so. I don't have a perfect memory  
17 and that should be understood, I'm human, and my  
18 memory sometimes, you know, has trouble for the day  
19 before, even the week before.

20 So just trying to make that clear as up  
21 front as I can be.

22 Q. Okay. What's the name of your corporation  
23 for your real estate and mortgage broker business?

24 A. It is QTK, Inc.

25 Q. QTK, Inc.

1           That is a California corporation, correct?

2           A.   Correct.

3           Q.   Do you recall when you incorporated?

4           A.   2004, I believe.

5           Q.   Were there any predecessor companies or  
6 corporations?

7           A.   It was previously a sole proprietorship  
8 before it became a corporation.

9           So --

10          Q.   Do you recall when --

11          A.   The first dba, I think, was 2002 or maybe  
12 2001.

13          Q.   Approximately the same time that you got  
14 your license?

15          A.   Correct.

16          Q.   And let's move along.

17                I'd like to talk with you about the  
18 trademark registrations that you have owned or  
19 currently own other than your pending application for  
20 SUPER HERO.

21          A.   Uh-huh.

22          Q.   So can you name for me all the trademark  
23 registrations owned by you or by an entity under your  
24 control?

25          A.   Probably.

1           Again, I don't have a perfect memory, but  
2           I'm assuming -- let's see here.

3           Waveworks Maiden Waves is registered and I  
4           have another one, Texastea, is registered and I don't  
5           know if there's anything else. I can't remember.

6           Q. Okay. Do you recall whether you have any  
7           abandoned applications that never got registered?

8           A. I don't think so.

9           Q. Is World Video Tours ringing any bells?

10          A. That is one, yeah. Good memory.

11          Q. Thanks. I didn't pull that one out of  
12          memory. My memory is not perfect either.

13          A. I forgot about that. That was a long time  
14          ago.

15          Q. And that one went abandoned, correct?

16          A. Yeah. I got denied, I guess. There was  
17          some conflict with name for similarity.

18          Q. So those are -- those are trademark  
19          applications that were -- one was abandoned, two, at  
20          least as far as you recall, have been registered and  
21          those are federal trademarks, correct?

22          A. I don't know the definition of federal  
23          trademark so much, but I'm assuming it's for the U.S.  
24          PTO registration.

25          Q. And that would be -- well, are you aware of

1 any state laws that allow for state or local  
2 trademark registrations?

3 A. I don't think so, no. No, I'm not. Again,  
4 I'm not a professional in the industry so much, so to  
5 be registering these, so I wouldn't know the full  
6 scope of it.

7 Q. Okay. It would be safe to say you're not  
8 familiar with federal trademark procedures?

9 A. Well, familiar enough to submit the  
10 application, I guess, you know.

11 I mean it's a lot more economical to do it  
12 yourself and I don't hire attorneys because it's not  
13 within my budget.

14 So as a small independent businessman, you  
15 kind of have to do what you can to go against, you  
16 know, to try to enter the marketplace.

17 Q. I understand. So if you recall, for the  
18 mark World Video Tours, for the mark Maiden Waves,  
19 for the mark Texastea, as far as you recall, you did  
20 not engage counsel to help you file those  
21 applications or prosecute those applications?

22 A. No, I did not.

23 Q. And to the best of your recollection, are  
24 there any other marks that or pending applications  
25 that are either in your name or the name of an entity

1 within your control? It's not a memory test.

2 A. That's the problem. My memory is sometimes  
3 the issue as I didn't remember the World Video Tours,  
4 which I should.

5 I don't think so. I don't think so. It's a  
6 crazy day every day for the work-week, you know, so  
7 it's hard to maintain the clear memory.

8 Q. I understand. Let's step through World  
9 Video Tours, Maiden Waves and Texastea briefly, get a  
10 sense for what you have -- what you have used these  
11 marks for.

12 Let's talk now about World Video Tours,  
13 please.

14 Was this mark ever developed? By  
15 "developed," I mean did you use the mark in commerce?

16 A. You know, it was a mark where I initially --  
17 I was abroad in another country and I tried to use it  
18 there or I guess I was operating or trying to  
19 operate, you know, as a small business owner there  
20 and then came to the U.S. and tried to establish the  
21 business here and it never materialized.

22 Q. What country were you in when you started  
23 this?

24 A. I was in Chile.

25 Q. Do you recall whether there were ever



1 products marketed or sold in the United States under  
2 this mark World Video Tours?

3 A. No, no products, no. I mean not from my  
4 company or not from anyone -- not from me.

5 Q. Okay. So you never sold any products?

6 A. No.

7 Q. Is the mark still being used?

8 A. No, it's not. It never was registered.

9 Q. Okay. Let's forget about whether it was  
10 registered or not. Are you still using that name?

11 A. No.

12 Q. Were there any license agreements that you  
13 engaged in --

14 A. No.

15 Q. -- for that mark?

16 A. No.

17 Q. Moving on to Maiden Waves, what is the mark  
18 Maiden Waves? I understand that this is related to  
19 your T-shirt business?

20 A. Correct.

21 Q. Are you -- have you developed this mark?

22 A. Correct, yes, I have. It's something where  
23 it is registered at -- likely you've referenced in  
24 your research as you were able to reference World  
25 Video Tours.

1           So I'm assuming you've done initial research  
2   to know my background. So without beating the horse  
3   too much that you already know, I would imagine, that  
4   yes, I have developed the product and have marketed  
5   it in the marketplace.

6           Q. Can you describe the products that are  
7   marketed and sold under this?

8           A. Yes, as detailed before, T-shirts and sweat  
9   shirts.

10          Q. And you're still using the mark, correct?

11          A. Correct.

12          Q. And where are products being sold? And by  
13   where, I mean both geographically and I also mean  
14   what outlets are being used.

15          A. Right. Initially, I have mostly sponsorship  
16   for the product, athlete sponsorship for like, say,  
17   ski and snowboard teams.

18          Q. Now, what does that mean? Does that mean  
19   that you go to -- you sell directly to ski and  
20   snowboard teams?

21          A. Correct.

22          Q. I'm presuming in the Lake Tahoe area?

23          A. Correct.

24          Q. And how do you initiate contact with the ski  
25   and snowboard teams?

1           A. Well, through just, I guess, personal  
2 introduction, you know, just with West Clay  
3 Industries was my first enterprise to sell T-shirts  
4 and as it did back then, you kind of go through the  
5 yellow pages and find people and make some phone  
6 calls.

7           Q. Okay. So you do go out and target your  
8 efforts to particular operations you find either in  
9 the phone book or on the Internet?

10          A. Yes, I have. I have. You know, it really  
11 depends on my timing, my workload, you know.

12                 I often postpone things until I can address  
13 them. For example, this circumstance here with SUPER  
14 HERO, it's something where, you know, I'm needing to  
15 get through this process of registering the mark and  
16 then I can move forward with, you know, the  
17 initiative to pursue the business operations and  
18 whatever may be necessary to make it a viable  
19 business.

20          Q. I understand. Is that the procedure that  
21 you followed with Waveworks and the Maiden Waves  
22 mark?

23          A. I would think so, yeah. It's always -- I  
24 don't have the leisure to kind of have either  
25 attorneys or a bunch of people help me with a

1 business plan, things like that.

2 It's kind of, you know, get to things when I  
3 can or work on them when I can and then hopefully  
4 make that next step right after, you know.

5 It's kind of a not necessarily a leap of  
6 faith, but it's really a matter of hopefully an  
7 educated initiative, I guess, to some respect.

8 Q. With respect to the Maiden Waves mark and  
9 the T-shirt business, please help me understand the  
10 progression of events.

11 Did you wait until after you had secured the  
12 trademark registration before you formed the  
13 business?

14 A. Well, I submitted -- I believe -- I don't  
15 know exactly dates so I can't say precisely here,  
16 because I'm not a -- I don't have dates exact or the  
17 sequence of things, but I'm sure I must have  
18 registered it and then made -- once I secured that  
19 because otherwise I would be wasting, I think,  
20 resources, my time and money on something that is not  
21 secured to my efforts, meaning secured right for me  
22 to use.

23 Q. So would it be safe to say that, as you sit  
24 here today, your belief is that you would not have  
25 devoted resources to the company unless and until you

1 were confident you had a right to use the mark for  
2 the goods that you were proposing to sell?

3 A. Well, you have to -- I don't know if I can  
4 say that universally, so to say, at least the time I  
5 think about things and even though I'm not putting  
6 them into a business plan, something more tangible of  
7 that nature, I'm formulating probably ideas or  
8 looking around for the options of how to implement  
9 things. So my intent is always there to move forward  
10 and to finalize.

11 Q. Do you recall what the filing date of your  
12 application was for the Maiden Waves mark?

13 A. I don't have it with me. I didn't study  
14 before I came here so much, you know, so I don't have  
15 dates and numbers to throw at you. I didn't have  
16 time to study.

17 The question was the date when I registered  
18 it?

19 Q. The date you filed the application, you  
20 don't recall that?

21 A. I don't. I think it's '95 -- no, '97, I  
22 think, but, you know, that's easily referenced as you  
23 referenced my other materials.

24 Q. Sure. And I take it you don't recall when  
25 it was actually registered; is that correct? There

1 are two events, right, there's --

2 A. Right, yes. See I'm not understanding your  
3 specifics, I guess.

4 Q. So there are two events, there's one where  
5 the applicant, that's you, files an application?

6 A. Right. I'm just not getting it, sorry.

7 Q. And then there's a second event, which is  
8 when the mark actually gets registered?

9 A. Right. So --

10 Q. So to clarify, do you recall when you filed  
11 the application for Maiden Waves?

12 A. I think it was '97. I'm not certain, you  
13 know.

14 Q. I understand. Let's talk about licensing  
15 agreements.

16 Have you licensed the mark Maiden Waves?

17 A. I have not.

18 Q. Have you negotiated for a license agreement?

19 A. I have not, no.

20 Q. Let's move on to Texastea and let's move  
21 through this. I've got similar questions for you.

22 Did you develop this mark?

23 A. Texastea, yes.

24 Q. Describe, please, for us the products  
25 marketed or sold.

1           A.   Lubricants.

2           Q.   Engine oil?

3           A.   Correct.

4           Q.   Motor oil?

5           A.   Correct.

6           Q.   And where are you selling these products?

7   Again, by where, I mean geographically and I also  
8   mean the channels of distribution.

9           A.   Right.  It's a newer business, so I don't  
10   have distributors or outlets at this time.  They are  
11   for sale.  If you wanted to buy some, I could sell  
12   them to you today.

13          Q.   And let's clarify what we mean by "them."

14                Do you mean cans of motor oil or bottles of  
15   motor oil?

16          A.   Right.  They would be larger bulk size,  
17   between five gallon and larger size to, say, 275 tote  
18   size containers.

19          Q.   Okay.

20          A.   275 gallon, I don't know if I clarified  
21   that.

22          Q.   So who are the targeted customers for  
23   Texastea?

24          A.   Targeted customers.

25          Q.   Motor oil products.

1           A. I think anyone that wants to purchase and  
2 maintain their engine, so to say, or lubricant  
3 products. It's not only engines. It would be  
4 hydraulic products as well.

5           Q. Are you targeting people who drive cars and  
6 need motor oil or are you targeting mechanics who  
7 operate garages?

8           A. Well, I wouldn't say -- I'm not  
9 discriminatory, so to say. I'm hoping to sell it to  
10 anyone who wants it, honestly.

11          Q. Okay. Are you advertising these products  
12 for Texastea?

13          A. I have an Internet site which I imagine  
14 you've referenced and that's advertising, you know.

15                Besides that, no, I don't have any  
16 advertising.

17          Q. Have you contacted any corporations  
18 regarding distribution of Texastea branded motor oil  
19 or lubricants?

20          A. I have not.

21          Q. You haven't been in touch with Jiffy Lube  
22 or --

23          A. No.

24          Q. Okay. Do you have any plans to do so?

25          A. It's a good idea, but no, I don't have



1 plans. I haven't made a plan to do that.

2 Q. Let's -- thank you.

3 Let's step back to Maiden Waves briefly.

4 You said that one of the targeted customers  
5 are athletic sponsorships, ski teams, snowboard  
6 teams?

7 A. Right.

8 Q. Do you currently distribute T-shirts or  
9 sweat shirts or other clothing items under the Maiden  
10 Waves mark through retail outlets, for example?

11 A. I have not.

12 Q. Okay. Do you have plans to do so?

13 A. In the past, I had attempted. So -- but  
14 again, as new entrepreneur, I have to maintain my  
15 business as a real estate mortgage or real estate  
16 brokerage, because that's what makes me money  
17 immediately.

18 So to pay bills and to pay production  
19 expenses, it's a juggling act and it's a matter of  
20 focusing on something that will bring me income until  
21 I can have a moment to divide my time and follow  
22 through with my intention of either addressing a sale  
23 or that matter.

24 So --

25 Q. I understand. If I surfed the Internet to

1 an appropriate location, could I buy a T-shirt with  
2 the Maiden Waves logo on it?

3 A. The web site does not have a shopping cart.  
4 So --

5 Q. Is that a technical issue? Is that a -- or  
6 is that a timing issue because you're stretched thin?

7 A. I would think timing as well as finances and  
8 how you have to -- I guess I need to choose my  
9 budgeting, so to say.

10 Q. Let's move on. Let's go back to Exhibit 1,  
11 please, which is in front of you.

12 And talk a little bit about some of the data  
13 you've entered here.

14 The filing date of this application is  
15 February 24, 2006?

16 A. Uh-huh.

17 Q. Does that -- does that appear accurate to  
18 you as best you can recollect?

19 A. Yeah, I think so.

20 Q. Okay. It's almost three years ago to the  
21 day, right?

22 A. Uh-huh, I think so.

23 Q. So mark information is SUPER HERO, the word  
24 SUPER HERO and I wanted to ask you why SUPER HERO?  
25 What was the reason you selected this mark?

1           A. Well, I believe that was a question asked to  
2 me in some of the questioning that was sent to me; is  
3 that correct?

4           Q. Yes, I believe it was. I just want to make  
5 sure --

6           A. It's the same answer I responded to before.

7           Q. Okay. So you were in a park and you heard a  
8 dog being called SUPER HERO?

9           A. Correct.

10          Q. You like dogs? I've got two golden  
11 retrievers.

12          A. I think I like all animals.

13          Q. Do you remember what kind of dog it was?

14          A. I don't. I wish I did.

15          Q. So let's step down -- the literal element is  
16 the words SUPER HERO.

17                 And in the mark statement, this field reads  
18 "The mark consists of standard characters, without  
19 claim to any particular font, style, size or color";  
20 is that correct?

21          A. On page 1?

22          Q. Page 1, yes.

23          A. I guess so. Your question is: Is that  
24 correct?

25          Q. Was that your intention when you filed that

1 application, not to claim any particular font, style,  
2 size or color?

3 A. You know, as it was three years ago, I can't  
4 say for certain what my exact reference to this mark  
5 statement was.

6 I'm guessing it must have been, yes.

7 Q. I don't want you to guess if you don't know.  
8 You can say I don't know. But just as you sit here  
9 and you look at the words in mark statement, it  
10 appears as though there's no logo requirement or any  
11 graphical element to this mark; is that correct?

12 A. Correct.

13 Q. And again, if you don't know, you don't  
14 know, but in declining to limit this mark, was it  
15 your intention to cover, to capture all uses of the  
16 term SUPER HERO in connection with Class 3 products?

17 A. I guess so, you know.

18 Well, I'm not trying to guess.

19 I wanted to be able to use the mark for my  
20 products. So, of course, my intent was to have  
21 exclusive use to it.

22 So I think that's why I probably put that  
23 there.

24 Q. Okay. Let me clarify why I'm asking.

25 With respect to your Maiden Waves mark,

1     that's registered?

2             A.    Right.

3             Q.    And with respect to your Texastea mark which  
4     is also registered?

5             A.    Correct.

6             Q.    There are design elements to those marks.  
7                    Are you aware of that?

8             A.    Yes, I guess.   Well, I'm understanding your  
9     distinction between this mark and the other marks, I  
10    didn't feel, you know, maybe there was a need, for my  
11    purposes, to have maybe a design element, so to say,  
12    because it doesn't seem to be my intention to have  
13    any type of design or any aspect of that nature.

14            Q.    Okay.   Thank you.

15                    So prior to filing this application in  
16    February of 2006, did you attempt to determine  
17    whether any third parties were using the mark in  
18    commerce?

19            A.    I don't think so, no.

20            Q.    Okay.   And I think I know what the answer to  
21    this is, but I'm going to ask you anyway, did you  
22    hire intellectual property counsel to investigate  
23    this for you?

24            A.    No.

25            Q.    Did you conduct or commission a search,

1 electronic or otherwise, of others' possible uses of  
2 the mark?

3 A. Right. I don't think so, you know.

4 I mean again, it was almost three years ago  
5 and it was while I was extremely busy with lots of  
6 other obligations.

7 So again, sometimes I have trouble  
8 remembering what I did yesterday and even last week.

9 So three years ago is a huge stretch for me.

10 Q. Okay.

11 A. And I don't keep a diary.

12 Q. Okay. Were you -- do you recall, were you  
13 aware at the time that there are legal search tools,  
14 legal search services out there that could have  
15 helped you with a quick search of whether someone  
16 were out there using the mark?

17 A. At that time, I'm not sure if I knew. I  
18 can't say for sure whether or not. Again, three  
19 years ago is a long time.

20 Q. Have you ever heard of a company called  
21 Lexis Nexis that does like legal research -- offers  
22 legal tools?

23 A. I have heard of it.

24 Q. Have you heard of Westlaw?

25 A. I have heard of that as well.

1 Q. They do similar searches?

2 A. I think so.

3 Q. Have you ever used those services?

4 A. Very little. I'm not sure if I have.

5 Again, I'm pretty sure I never used it for  
6 this trademark or any other trademark.

7 Q. Okay. When we were discussing your  
8 background, you said that you're an entrepreneur and  
9 one of the skills that you learned as an entrepreneur  
10 is kind of forward looking, forward thinking, being  
11 able to see opportunities and do research on those --

12 A. Like I say -- I like to hope that is the  
13 case, but I can't say that I've been certified as an  
14 entrepreneur or licensed as an entrepreneur.

15 I'm just trying to make progress and paying  
16 bills, that's it.

17 Q. I understand. But as an entrepreneur who  
18 needs to think quickly and recognize opportunities,  
19 you are aware of research tools out there and you use  
20 them when you can; is that accurate?

21 A. If I know about them, I would think, I would  
22 like to think that I would, but often, my time  
23 schedule and either finances don't allow me to.

24 Q. Understood.

25 Did you, at the time you filed this

1 application in February of 2006, had you investigated  
2 the Patent and Trademark Office's web site at all,  
3 which is a free resource?

4 A. I'm not sure if I did. I can't remember.

5 Q. You don't recall?

6 A. I don't recall.

7 Q. You don't recall any efforts to contact the  
8 Patent and Trademark Office regarding how you might  
9 do a search if you were so inclined?

10 A. I don't remember, you know. I filed  
11 Waveworks previously or in the past, so I'm familiar  
12 with submitting the application, obviously.

13 Q. So at the time that you filed this  
14 application in February of 2006, is it safe to say  
15 that you had taken no steps that you can recall to  
16 determine whether your use of the mark in commerce  
17 might somehow be adverse to another entity's prior  
18 use of the mark SUPER HERO?

19 A. Right. I certainly wouldn't pursue  
20 something that would be adverse because if I did it  
21 would be wasting a lot of my time and I don't want to  
22 waste any of my time or anyone's money. I don't want  
23 to waste any of my money. If I thought it would be  
24 adverse, why bother. I'm not here to make trouble.  
25 I just want to try to implement a business, I guess.



1           Q.   So if there had been a quick way to do a  
2   free search on the Patent and Trademark Office's web  
3   site to determine if anybody had been using this mark  
4   in commerce, you don't recall using it?

5           A.   I don't.

6           Q.   So let's move forward.

7                   Applicant information is the next item on  
8   the trademark application.

9                   That's you, Silver, Michael, Craig?

10          A.   Correct.

11          Q.   Is this address current?

12          A.   It is current.

13          Q.   Okay.

14          A.   It's a current property that I own.

15          Q.   Okay. Is the -- on the top of the next  
16   page, is that e-mail address current?

17          A.   It is current. I have more than one e-mail  
18   address, but that --

19          Q.   This one will work?

20          A.   Yeah.

21          Q.   Realtyia.com is a domain that is associated  
22   with your real estate and mortgage broker business?

23          A.   Correct.

24          Q.   The next item on the list on the trademark  
25   application is legal entity information and you

1 entered individual?

2 A. Uh-huh.

3 Q. Is that correct?

4 A. That's what it says, that is correct.

5 Q. Okay. I take that to mean that at the time  
6 you filed this application, you had not formed a  
7 business that was going to be geared toward  
8 manufacturing and marketing and selling Class 3 goods  
9 products; is that correct?

10 A. Well, I think maybe -- no, I had not. I  
11 think what I was probably considering that if it was  
12 to be a viable product, that I would probably  
13 potentially use it with my Waveworks, if that was  
14 ever going to evolve, you know, again, an option, but  
15 not the decision, I guess, you know.

16 I mean I have -- starting a business is a  
17 pretty quick administrative situation, not easy, but  
18 it didn't seem to be any type of impediment to stop  
19 me from trying to do something.

20 MR. CASTELLUCCI: Could you read back that  
21 answer, please, the question and answer, please?

22 (The record was read by the Reporter.)

23 BY MR. CASTELLUCCI:

24 Q. Okay. I don't think I quite understood your  
25 answer on a couple of different levels.

1           The first is is it quick to form a business,  
2   is it quick and easy to form a business or is it not?

3           A. Well, quick is, I guess, a subjective term;  
4   likewise with easy.

5           Maybe I used those words loosely and it's  
6   possible. I mean I'm not sure how to answer that  
7   easy -- it has not been easy and it's not always been  
8   quick, so I think I responded maybe too quickly, but  
9   at the same time, it, as I said, is not an  
10  impediment, the fact I didn't have the decision of  
11  which maybe business entity I would be selling the  
12  product from to prohibit me from trying to move  
13  forward with -- with this opportunity.

14          Q. I understand. I think I understand.

15          So you decided to apply to register the mark  
16  before you had formally founded a company  
17  specifically to market the products because you  
18  already had a company in place and you thought that  
19  if you had a marketable product, your Waveworks  
20  company would be able to market the product; is that  
21  correct?

22          A. I think that's maybe what I was considering  
23  at the time, because, you know, as far as maybe what  
24  I was gauging was if my budget, unfortunately, and  
25  the fact of timing things and really cross that

1 bridge when I get to it, I would think, that I  
2 have -- once I have the product, to try to finalize  
3 my initiative and my intent to sell it wouldn't  
4 really be an obstacle; it's actually finalizing a  
5 sale.

6 Q. Would it be safe to say that when you filed  
7 this application in February of 2006, you thought  
8 that if you had a product that you could sell, you  
9 would be selling it through your Waveworks company;  
10 is that fair?

11 A. I'm not sure. I can't say that's fair, so  
12 to say.

13 I guess that's making an assumption. It's  
14 maybe one of the options I considered. Again, I  
15 can't think back and know exactly three years ago  
16 what I was considering and at this time, I don't know  
17 exactly what decision I would make, you know.

18 It's kind of trying to do business, it's an  
19 evolving situation and the fact that you don't have a  
20 master plan to start with, maybe that's some things  
21 that some Internet company could do back in the '90s  
22 or something, but I don't have the time or the  
23 resources to have a perfectly polished situation to  
24 try to make a first step to try to get a business  
25 going.

1 Q. I understand.

2 At the time you filed this trademark  
3 application in February of 2006, did you have any  
4 experience with the manufacturing, marketing or sale  
5 of any of the types of products that are listed in  
6 category international Class 3?

7 A. Specifically, no.

8 Q. Let's move to the filing basis, next block  
9 below the description, filing basis section 1(b).

10 At the time you filed this application in  
11 February of 2006, did you think that you fully  
12 understood the requirements of section 1(b)? For the  
13 purposes of the court reporter, 1(b), B is like  
14 bravo.

15 A. Well, again, I'm not a professional that  
16 works in filing trademark applications, I'm not as  
17 up-to-date, I don't review and address the filing  
18 basis.

19 I'm hoping you can define for me so I can  
20 remember exactly what that refers to.

21 Q. Okay. Let's do this.

22 If you turn to the fourth page of  
23 Exhibit 1 --

24 A. This page here?

25 Q. That page there. There is a bold line that

1 begins for specific filing basis information?

2 A. Uh-huh.

3 Q. The paragraph, the second full paragraph  
4 under that begins "If the applicant is filing under  
5 section 1(b), intent to use."

6 A. Right. Thank you.

7 Q. This reads that "the applicant declares it  
8 has a bona fide intention to use or use through the  
9 applicant's related company or licensee the mark in  
10 commerce."

11 And it makes reference to a statute 15 USC  
12 section 1051(b) like bravo.

13 Do you see that?

14 A. Yeah, my eyes are not great, but -- yeah.

15 Q. Do you recall reading this paragraph before  
16 you elected to file this application under section  
17 1(b)?

18 A. Well, again, three years ago, not -- I  
19 understand that it's an intention -- intent to use  
20 application and that's how I filed it.

21 I don't have a product done and so that was  
22 my application, again, yes, intent to use.

23 Have I -- do I remember exactly the  
24 specifics of this paragraph, I don't.

25 Q. Okay. And so it made reference -- this

1 paragraph makes reference to 15 USC section 1051(b).

2 Did you review that statute before you  
3 signed this document?

4 A. I don't remember. That's what I know. I  
5 don't remember if I did. I don't know if I would  
6 have, but I don't remember. Maybe if I looked at  
7 that statute, maybe it would recall my memory, but I  
8 don't know.

9 Q. Do you recall checking the Patent and  
10 Trademark Office's web site to do a little research  
11 and find out what it meant to file an application  
12 under section 1(b)?

13 A. I don't remember.

14 Q. Are you aware that the -- that the Patent  
15 and Trademark Office web site has a lot of free tools  
16 that allow you to view, for example, the trademark  
17 manual of examination procedures?

18 A. I know there are some tools, but, again,  
19 because of my limited time and schedule, I try to be  
20 diligent and I know at the time my intent was to be  
21 as diligent as possible and my intent was to do it as  
22 correctly and as honestly as I could.

23 So I don't know if, at that time, three  
24 years ago, again, a very busy time for me, whether or  
25 not I either had the time, had the energy or the

1 focus to try to read every last paragraph of every  
2 statute that was suggested that may be helpful.

3 Q. Okay. So I understand.

4 So further down on page 4 there's a heading  
5 that reads declaration?

6 A. Uh-huh.

7 Q. And in that declaration, I'm looking at the  
8 third line up from the bottom, toward the end of the  
9 line, there's a clause that reads "If the application  
10 is being filed under 15 USC section 1051(b) --

11 A. I'm sorry, I'm not following you. Where are  
12 you?

13 Q. Three lines up from the bottom of the page,  
14 about two inches in --

15 A. If the application.

16 Q. "If the application is being filed under 15  
17 USC section 1051(b), he/she, the applicant believes  
18 the applicant to be entitled to use such mark in  
19 commerce."

20 Do you see that?

21 A. I do.

22 Q. And "to the best of his/her knowledge, the  
23 applicant," that's you, "and belief, no other person,  
24 firm, corporation or association has the right to use  
25 the mark in commerce."



1           Do you see that, over to the next page?

2           A. I do.

3           Q. Do you recall reading this before you  
4       elected to file under section 1(b)?

5           A. I don't remember at this time, again, what  
6       exactly. I'm guessing if it was right there, I  
7       probably read it.

8           So again, three years ago, I can't remember  
9       exactly what I read.

10          It looks familiar, but yeah, again, I  
11       wouldn't have pursued any efforts if I thought it was  
12       adverse or in conflict with someone else.

13          So --

14          Q. Well, I thought we had established a while  
15       ago that at the time you filed this application, in  
16       February of 2006, you hadn't taken any steps to  
17       determine whether anyone -- any entity were already  
18       using this mark in commerce; is that correct?

19          A. Correct.

20          Q. Okay. What was your -- what was the basis  
21       for your belief in this declaration that no other  
22       person, firm, corporation or association has the  
23       right to use the mark in commerce?

24          A. You know, I think I may have. I think it  
25       was probably just, say, doing a walk-through of maybe

1 a sunscreen store, you know, just briefly noticing  
2 there was no other brands with that name on the  
3 shelf.

4 Q. But you didn't search the Patent and  
5 Trademark Office web site, for example?

6 A. Not that I remember.

7 Q. You didn't do a search on the Internet --  
8 you didn't engage a search firm?

9 A. No, I wouldn't have paid anyone. I don't  
10 have that type of budget and it's a matter of being  
11 as selective with spending as possible.

12 Q. Right. So you walked down the aisles of the  
13 sunscreen store?

14 A. I believe so, yeah.

15 Q. And maybe a drug store or pharmacy and you  
16 looked at some of the bottles of sunscreen?

17 A. I'm not sure exactly where it was, but I  
18 think the circumstance was I was looking around and  
19 again, three years ago, four years ago, whenever it  
20 was, recognize this doesn't seem to be out here.

21 Again, I don't know if it was a drug store  
22 or a cosmetic store or whatever the case would be,  
23 and I think it dawned upon me that hey, there's  
24 nothing like this with this name on the shelf here.

25 Q. If it weren't on the shelf but it were

1 somewhere else, for example, on the Patent and  
2 Trademark Office's web site or at a different store,  
3 you wouldn't have known about it, correct?

4 A. Well, you know, it's a big world out there,  
5 you know.

6 I mean I could have searched for a week or  
7 maybe searched for a month or a year and I could have  
8 searched just in California or could just search in  
9 Mississippi or China, you know. If I search in  
10 China, I mean I could be searching forever as far as,  
11 you know, even finding an American product, I guess.

12 So --

13 Q. I understand. Had you heard of DC Comics  
14 and/or Marvel characters before you applied for this  
15 mark for SUPER HERO?

16 A. I don't think so. I don't think so. I'm  
17 not really a comic book reader, from what I gather,  
18 so no.

19 Q. Were you aware of their use of the mark  
20 SUPER HERO?

21 A. I was not.

22 Q. But you also didn't bother to investigate  
23 whether the mark were already in use in commerce  
24 other than a walk through a store; is that correct?

25 A. I believe so. Again, three years ago is a

1 long time ago.

2 Q. If a quick five-minute search on the Patent  
3 and Trademark Office's free web site would have  
4 turned up information about prior use, you wouldn't  
5 have found it?

6 A. I don't know. I don't know if I would have.  
7 Again, it all depends.

8 Sometimes a five-minute search seems like  
9 not a big deal, but when there's a fire, you know, if  
10 there's major situations or budgeting or stress,  
11 personal stress or whatever the case may be, five  
12 minutes is a lot of time and there's no, you know,  
13 there's no justification to say oh, just five  
14 minutes. It's not just five minutes. It all depends  
15 on the individual's schedule.

16 Q. I understand.

17 We've been going for just about an hour. Is  
18 this a good time to take a break? Five minutes? Or  
19 do you just want to --

20 A. I'm all right.

21 Q. Plow forward?

22 A. Mind if I just stand up for a second?

23 Q. Sure. I'll get a cup of coffee.

24 (Recess taken 11:11 to 11:17.)

25 MR. CASTELLUCCI: Back on the record.

1 BY MR. CASTELLUCCI:

2 Q. So I want to talk about the goods, the Class  
3 3 goods that you intend to sell under the mark SUPER  
4 HERO.

5 So we talked about what they are, after-sun  
6 screens -- sun creams, beauty creams and so forth.

7 So I asked you what the reason for the  
8 selection of the mark was and there was the dog in  
9 the park story.

10 Is there some connection between the dog in  
11 the park and these particular goods?

12 A. Again, I believe I referenced I liked the  
13 name. So and -- and it seemed to be a friendly dog.

14 Q. And you had plans to produce these goods at  
15 the time?

16 A. I can't remember. I don't think so, but I  
17 can't remember.

18 Q. Okay.

19 A. I'm not certain of the sequence of events  
20 exactly of, you know -- I mean I'm considering more  
21 than one thing at a time.

22 Q. Right. So if I understand what was the  
23 reason for selecting this particular mark in  
24 connection with these particular goods, your answer  
25 would probably be you don't recall; is that accurate?

1           A. Yeah, it seems accurate.

2                   I mean, again, three years ago and the  
3 precise reason of why, you know, or the feeling I got  
4 from the circumstances for that name and then the  
5 sequence of when I decided it would go, I'm not sure  
6 if it was before or after, I'm not certain.

7           Q. Okay. So just to be clear, I know I asked  
8 this before, but I want to make sure I understand.

9                   At the time you filed this application,  
10 February 2006, you didn't have any experience with  
11 respect to manufacturing and marketing or sale of the  
12 types of goods listed in Class 3; is that correct?

13           A. Well, to answer that maybe more thoroughly  
14 is do I have experience in production and to me,  
15 they're not necessarily a widget is a widget, meaning  
16 one product is fairly similar as far as conceiving a  
17 production schedule, who to contact, you have the  
18 initiative to contact people once you decide to move  
19 forward.

20                   So have I ever packaged a sunscreen, no. Do  
21 I think I can do it, do I intend on doing it, did I  
22 intend at the time to do it, absolutely, you know.

23                   My intention is there the whole time and my  
24 confidence to try to visualize that I could be able  
25 to package it at the future time, sure, you know.

1           I mean, again, a production of maybe a  
2 mortgage loan, even though it's a financial  
3 instrument, it's a process and likewise with a  
4 T-shirt, conceived the design, contact the maybe  
5 eventual production people, seems very possible.

6           Q. So at the time, and by "the time" I mean  
7 February of 2006, you didn't really see much of a  
8 distinction between the manufacture, marketing and  
9 sale of international Class 3 products versus  
10 T-shirts, for example; is that correct?

11          A. The distinction -- well, they're clearly  
12 different classes so I recognize the different class.  
13 That's why I selected a different class.

14           So your question is what was I thinking at  
15 that time? I can't be certain of what I was thinking  
16 at that time.

17           Again, ask your question, I guess, so I can  
18 understand it.

19          Q. Okay. When you filed your application in  
20 February of 2006, was it your understanding that your  
21 experience with the process of manufacturing,  
22 marketing and selling T-shirts, that experience would  
23 be readily transferable to the manufacture, marketing  
24 and sale of Class 3 products?

25          A. I don't know if I was necessarily -- again,

1 I can't say for certain now. I can't, because three  
2 years ago, I don't know exactly what I was thinking  
3 then.

4 I think maybe I had the confidence at the  
5 time to realize that whatever had to be learned in  
6 the future, I could learn.

7 Q. That's fair enough.

8 At the time in February of 2006, did you  
9 have any knowledge regarding the Food & Drug  
10 Administration? And by Food & Drug Administration  
11 going forward, I'm going to call them the FDA.

12 Did you have any knowledge of FDA  
13 regulations regarding health and beauty products,  
14 including sunscreens?

15 A. Not that I had researched. I guess I'm  
16 familiar with them from newspapers, but that's, you  
17 know, again, I hadn't, I guess, studied or researched  
18 their requirements, so to say. I don't think it was  
19 necessary, at that time.

20 Q. Okay. Did you do any research into the  
21 requirements for obtaining and/or handling the  
22 constituent chemicals you intended to use?

23 A. Well, through Maiden Waves, I submitted some  
24 paper work as you guys have referenced, correct, you  
25 guys received a Maiden Waves sunscreen --



1 Q. Yes, we will get to that in a minute.

2 A. So through that, that's something that was a  
3 previous conceived product and through that -- I  
4 think through newspaper and things like that, I had  
5 garnered information.

6 Again, that was previous to this, so I don't  
7 know the timeline or the exact memory of that.

8 Q. What about that research -- if you recall,  
9 what about that research was related to obtaining and  
10 handling chemicals for use in Class 3 products?

11 A. I don't know if I can call it -- I don't  
12 know if we can call this research that so much I was  
13 doing.

14 It's kind of a loose project of trying to --  
15 trying to maybe see an opportunity in the midst of a  
16 daily work schedule.

17 So I forget if there was a time I reviewed  
18 these handling of the chemical products.

19 Again, I don't think my intention was if I  
20 think that was something that would need to be  
21 addressed, I would be able to address that in the  
22 future.

23 Again, my intention was to have a product,  
24 it was a bona fide intent, so to say, and to me, that  
25 was a conviction that I had to move forward with.

1           Q.   Okay.  Do you have any training in chemistry  
2   or chemical engineering?

3           A.   You know, I took a bit of chemistry in  
4   college.

5                    So I guess familiar with some respect, I  
6   don't call myself a chemist, but I took a bit of  
7   chemistry.

8           Q.   Okay.  Do you have any scientific or  
9   chemical training that qualifies you to analyze or  
10   predict the way certain chemical compounds might  
11   interact when mixed in with formulation?

12          A.   Well, on a professional level, I wouldn't  
13   think so, but as a part of being a producer, the  
14   ability to hire someone to do that eventually in the  
15   future when I got to that stage would seem to me to  
16   be a possible resolution to any hurdle there may be  
17   to not knowing my chemistry.

18                   So that I, if I had a problem with it for  
19   some reason at that future date, I would potentially  
20   be able to resolve it with hiring an independent  
21   contractor of some sort.

22          Q.   And as of February of 2006, you hadn't hired  
23   anyone to help you with that analysis?

24          A.   No.

25          Q.   And as you sit here today, you have yet to

1 hire anyone to help with you that analysis; is that  
2 correct?

3 A. No. I haven't.

4 Q. So the answer is yes, that's correct?

5 A. Correct, I have not hired anyone.

6 Q. Okay. So in the three years since you filed  
7 the application, now it's three years later, 2009,  
8 have you conducted or commissioned any research into  
9 the requirements for obtaining and handling the  
10 constituent chemicals that you hope to use in Class 3  
11 products?

12 A. Right. I have not.

13 I'm waiting, of course, for my application  
14 to be approved so then I can move to my next stage of  
15 trying to implement my intent.

16 Q. Okay. Do you know whether the business of  
17 manufacturing and selling the products, as you hope  
18 to conduct the business, is legal?

19 A. Well, do I hope -- one more time.

20 Q. So you intend to get into the business of  
21 manufacturing and selling these products in some  
22 capacity, correct?

23 A. Uh-huh.

24 Q. Do you know whether conducting the business,  
25 as you intend to conduct it, is a legal enterprise?

1           A. Well, last time I read in the paper  
2 anything, I don't believe selling sunscreen is  
3 contraband, I don't think it's illegal.

4           To me, to my understanding, why would it be  
5 illegal? I mean it seems like a normal product that  
6 people use and should not be illegal.

7           Q. Okay. Are you aware of any licensing  
8 requirements for the -- for the business as a whole  
9 with respect to obtaining the chemicals that you  
10 might need, either FDA requirements or local  
11 requirements?

12          A. You know, I may have read in the newspaper,  
13 sounds familiar, but again, if it's an issue, if it's  
14 a problem, if it's a hurdle, at that future date, I  
15 can address it.

16          I feel confident I could address it and as I  
17 see other products on the shelf of a store that maybe  
18 I shop at, you know, if other products are already in  
19 the marketplace, it seems that okay, it's not an  
20 illegal substance.

21          Q. But you don't know what Johnson & Johnson  
22 may have done or what Bullfrog may have done to  
23 ensure that selling the products they're selling is a  
24 legal enterprise?

25          A. No, I don't know exactly, but I know that

1     it's possible they did it.

2                 So being an optimistic person, I think I  
3     could probably do it.

4                 Q.    Okay.   Thank you.

5                 MR. CASTELLUCCI:   I would like to mark this  
6     document, please, as Exhibit 2 I think we're on.  
7     Exhibit 2 is a two-page document that was attached to  
8     your opposition to the opposer's motion to amend.  Do  
9     you recall that?

10                THE WITNESS:   I think so.

11                MR. CASTELLUCCI:   After we get the exhibit  
12     marked, I'd like you to review it and we will go from  
13     there.

14                (Exhibit No. 2 was marked.)

15     BY MR. CASTELLUCCI:

16                Q.    Does this document look familiar to you?

17                A.    Yes, this is the document I submitted.

18                Q.    Okay.   Who created this document?

19                A.    I created this document.

20                Q.    And do you recall when you created it?

21                A.    I do not.   I may have noted that in my  
22     submission, maybe if you have your documents here,  
23     maybe you referenced that.

24                Q.    My understanding was that in your response  
25     that you submitted, in your opposition to opposer's

1 motion to amend, you indicated this document was  
2 created in December of 2005?

3 A. Okay. So that sounds like may have been  
4 when it was created.

5 Q. But you don't have any independent  
6 recollection, as you sit here today, of when it was  
7 created?

8 A. Well, that sounds correct. That seems  
9 correct, when I maybe probably created it.

10 Q. Okay. Do you know whether there are more  
11 than one version of this document?

12 A. This should be the only version.

13 Q. So this document, in February of 2009, is  
14 identical to the form that it had been in December of  
15 2005 when you created it; is that correct?

16 A. Yeah, you know, again, it's almost four  
17 years now ago, and I would think so.

18 Of course, creating a document goes through  
19 revisions, of course, until maybe a click save, I  
20 guess maybe I typed something wrong and had to retype  
21 it.

22 My typing is not perfect, so sometimes I  
23 make misspellings or maybe I was going back and  
24 adjusting the margins or the -- the fact of whether  
25 or not it was in the exact same form it was

1 originally created, I can't be certain, but I believe  
2 this is the one and only and original document.

3 Q. Okay. So what I was --

4 A. Sorry.

5 Q. I think what I was really getting at with  
6 that question was do you know whether this document,  
7 as I'm looking at it here, has evolved from 2005,  
8 December of 2005 when you created it and December of  
9 2008 when you produced it to the opposers in this  
10 case?

11 A. I understand your question.

12 No, it has not.

13 Q. This document is not dated, is it?

14 A. Correct, it's not dated.

15 Q. And so do you have any way of authenticating  
16 the date of its creation?

17 A. I don't know. I don't think so.

18 Authenticating, what would entail  
19 authentication?

20 Q. Well, do you have any evidence that is not  
21 contained within the four corners of this document,  
22 that might serve to corroborate its existence in  
23 December of 2005?

24 A. Well, besides my, I guess, affirmation it  
25 did under oath, I don't know. It's -- it has to do

1 with the Maiden Waves business that I had that  
2 existed back in 2005 and 2004 and 2003.

3 So the reference is cross-referenced there  
4 and, you know, I didn't bring documentation that  
5 would corroborate it, so to say.

6 So maybe there is somewhere, I don't know.

7 Again, I believe I submitted exactly what  
8 was available and so at this time, right now, I don't  
9 have anything or maybe know how to corroborate it.

10 Q. But you think you might be able to  
11 corroborate its date of creation?

12 A. I don't know. I can't say. Maybe. I'd  
13 have to try to understand what would be a  
14 corroboration, if I have an old computer that would  
15 maybe have it dated. I've unfortunately gone through  
16 several computer crashes in this lifetime and  
17 unfortunately they happened recently as opposed to a  
18 long time ago.

19 So that's my situation.

20 Q. So you have -- the way you maintain this  
21 document in your business is a hard copy in a file  
22 cabinet somewhere; is that correct?

23 A. You know, as far as -- that is correct, but  
24 I can't be certain because, as I said, I have old  
25 computers and I have a business, I have many



1 computers.

2 It's not that I have one computer that I  
3 know inside out.

4 Some of the computers have had computer  
5 issues, some I can't turn on, some I can't turn on.

6 Q. I understand. I've had similar issues.

7 A. Yeah.

8 Q. So this document has no logo on it or any  
9 other identifying information, does it?

10 A. Well, it does have the company name of  
11 Maiden Waves Sunscreen at the top. That's what it  
12 was referencing.

13 Q. Let's talk just a little bit about this  
14 document.

15 Engineered Nano-Suntection SPF 55, what does  
16 that mean?

17 A. Well, to me it was kind of a marketing idea  
18 that maybe I had to establish this product with this  
19 Maiden Waves conceived product.

20 Q. Okay. So --

21 A. And its, I guess, corresponding description,  
22 either through adjectives and SPF, SPF is the sun  
23 resistant aspect of it.

24 Q. Is SPF an acronym?

25 A. I believe it is. I don't remember what it

1 stands for, though.

2 Q. Sun protection factor ring a bell?

3 A. Sounds familiar.

4 Q. Okay. Well, the implication with it --  
5 there are several implications, I guess, but the  
6 first is that this formulation that's set forth in  
7 this document is specifically engineered to produce a  
8 particular result, correct?

9 A. Well, to me, it wasn't -- this is not a  
10 formula. This is not a recipe right here. This is  
11 maybe just notes to myself about maybe some aspects.  
12 Again, I can't remember four or five years ago now, I  
13 can't remember exactly when this was created, but  
14 this looks like to me some things that I referenced  
15 for Maiden Waves for some possibilities of creating  
16 this type of product, if I was to do it with Maiden  
17 Waves.

18 Q. Okay. You just said four or five years ago,  
19 going back four and five years ago just now?

20 A. Right.

21 Q. Are you saying now you think this may have  
22 been created earlier than December of 2005?

23 A. I'm not sure. Again, maybe I speak too  
24 loosely with my dates and, again, that's because I  
25 don't know my dates. I mean I'm not a -- I'm not a

1 great -- I don't have a great memory, so unless I  
2 have things detailed to me, I won't have it.

3 Q. All right. So let's look at intermittent  
4 blockage, I'm down in the bullet points here under  
5 Engineered Nano-Suntection SPF 55.

6 The second to last bullet there is  
7 intermittent blockage of ultraviolet radiation, range  
8 200 nanometers to 700 nanometers

9 What does that mean?

10 A. I think I probably got some of these bits  
11 and pieces of sunscreen description from a newspaper,  
12 maybe I was reading it.

13 Again, I work on more than one thing at  
14 once, so I'm guessing, again, I can't say for sure,  
15 but I'm guessing at the time I probably just made  
16 this sheet quickly and kind of referenced and maybe  
17 paraphrased a thing or two, maybe not knowing exactly  
18 to some respect.

19 Maybe I -- maybe I understood it more so in  
20 the past, but, you know, I don't have an exact  
21 recollection of it.

22 Q. An intermittent blockage could mean that  
23 sometimes ultraviolet radiation is blocked and  
24 sometimes it's not?

25 A. That sounds like a pretty good translation.

1           Q. Do you know whether this range -- there's  
2 this range 200 nanometers to 700 nanometers.

3           Do you know whether that range accurately  
4 reflects wavelengths for all ultraviolet radiation?

5           A. I think it may have. It was, again, I think  
6 a newspaper article that I was reading quickly that I  
7 went through.

8           Again, long time ago for me, again, last  
9 week is a tough memory, but this long ago, yeah, it  
10 must be that was probably why I put it down here.

11           It looks like if it has range, seems to be a  
12 quantifying range to some respect.

13           So I think most of us would understand that  
14 to be a range.

15           Q. Okay. Would it surprise you to know that  
16 radiation -- electromagnetic radiation that has a  
17 wavelength longer than 400 nanometers isn't  
18 ultraviolet?

19           A. Would it surprise me? Again, I'm not a  
20 chemist and not an engineer. I'm not, you know --  
21 I'm an entrepreneur that's trying to maybe find a  
22 business that will pay my bills and something I'm  
23 interested in and, you know, I'm not trying to  
24 pretend I'm something I'm not.

25           Q. I'm not trying to antagonize you either.

1 I'm trying to figure out whether this is a  
2 typographical error --

3 A. I'm not antagonized. Hopefully you didn't  
4 get that the wrong way.

5 No, I don't know precisely. Again, if, as a  
6 business person, I got to the extent and when I'm  
7 ready to make the final decisions about maybe the  
8 business I could hire an independent contractor to  
9 fine tune whatever business objective I needed.

10 Q. So now you've got a list of ingredients here  
11 and I know you said this isn't a recipe but you've  
12 got a list of chemicals here.

13 Who prepared this list of constituent  
14 compounds?

15 A. Well, this was a list typed by me. Again, I  
16 believe it was from a newspaper article and I  
17 probably just -- I don't know if I did it all at once  
18 or what segment of time or more than one newspaper,  
19 I'm not sure.

20 Again, it's not, you know, my full-time job,  
21 so to say, to prepare these.

22 Q. You've mentioned reading newspapers and  
23 getting information from newspapers a bunch of times  
24 and I'm just curious, what newspapers do you read  
25 regularly?

1           A. Really I guess what would be available. I  
2   don't have any subscriptions, so -- but, you know, if  
3   I have time, if there's a newspaper around, I'll pick  
4   it up.

5           Q. If you're at the barber shop, if you're, you  
6   know, waiting at the doctor's office, you pick up a  
7   newspaper and read it?

8           A. Sure.

9           Q. You don't subscribe to the Wall Street  
10   Journal?

11          A. I don't.

12          Q. Do you subscribe to the Financial Times?

13          A. I don't subscribe to any newspapers.

14          Q. Okay. So with respect to these active  
15   ingredients listed here, you've got percentages in  
16   two different columns?

17          A. Uh-huh.

18          Q. And I presume that you decided on these  
19   percentages?

20          A. I don't think I decided. Again, long time  
21   ago, so I don't have an exact recollection of what  
22   happened here, I don't, I wish I did, of last week,  
23   but I don't.

24                 So these exact percentages, I'm guessing  
25   that maybe I referenced them or made them up so I

1     could have some type of, you know -- what I try to do  
2     is visualize as opposed to being able to have a  
3     brilliantly written business plan, to at least  
4     visualize, okay, maybe this is going to be what it's  
5     like.

6             So to me, this was the extent that, you  
7     know, for me, the purposes I needed for this project  
8     was just to try to get a visualization of how things  
9     would play out.

10            Q.   Okay.  You don't know exactly how these  
11     percentages work?

12            A.   I don't, no.  I didn't mix in my downstairs  
13     basement some chemistry project and that's, you  
14     know --

15            Q.   So you couldn't tell me, as you sit here  
16     today, whether these are percentages by weight or by  
17     volume, for example?

18            A.   No, I could not.

19            Q.   Okay.  Are any of these active ingredients  
20     controlled substances?

21            A.   Controlled, meaning regulated, so to say?

22            Q.   Yes.

23            A.   I'm not certain.  Again, my efforts and my  
24     understanding as a business person is even though I  
25     don't know all the rules about the industry, even

1     though I don't know all the chemistry behind the  
2     industry or everything else, I feel optimistic and  
3     confident when I get to that level and when I need to  
4     implement those decisions with the bona fide intent I  
5     have to make it a business, make it a project, make  
6     it a product, that I could either at that time then  
7     do the research or then hire people, but conceiving  
8     and having the objective and the intent to make the  
9     product at its inception was present.

10           Q.   Okay.  And -- but at the time you filed your  
11     application in 2006, you hadn't looked into whether  
12     you might need a license to obtain any of these  
13     chemicals?

14           A.   No, I don't think so.

15           Q.   Are any of these active ingredients  
16     potentially irritants or potentially allergenic?

17           A.   I'm not sure, you know.

18                   I think the fact I don't know is no  
19     inhibition for me to try to pursue it or anyone else,  
20     for that matter.

21                   The fact that I'm not fully implementing a  
22     business plan in advance or knowing the actual  
23     irritants, to me, doesn't seem like a hurdle to try  
24     to achieve a product.

25           Q.   Okay.  Well, you -- okay.



1           You read newspapers and you're up on current  
2 events.

3           A. I read newspapers, but I don't read them  
4 that frequently.

5           Again, I have a work schedule and reading a  
6 newspaper doesn't pay me.

7           Q. Right. I get that.

8           But in the news recently there's been news  
9 about a salmonella outbreak related to peanut butter  
10 processing plants.

11          Have you read anything about that?

12          A. I have heard about that. I don't think I've  
13 read an article about it.

14          Q. Do you know or -- well, let's think about it  
15 back in February of 2006.

16          At the time, had you thought about what  
17 might happen to your business or to your personal  
18 financial situation if your products had a similar  
19 effect on your customers?

20          A. Well, I think being a professional business  
21 person I try to be and try to be as responsible and  
22 accountable for all products, of course, I'm going to  
23 be doing, when I get to the point after I have my  
24 necessary initial objectives taken care of is to make  
25 a product that, of course, is understood and

1 regulated and fulfilling all requirements that would  
2 allow me to minimize, if not remove, all risk.

3 So the fact that maybe I'm not up to the  
4 current day of the current statute of what may be  
5 required, my good faith and good intention to have a  
6 quality product of the highest standards should not  
7 be debated and the fact that I'm at Z before I'm even  
8 at B shouldn't prohibit me from having the good faith  
9 intent to make the product follow through.

10 Q. Okay. That's fair.

11 How do you know how much, for example,  
12 insurance is going to cost you? And wouldn't that be  
13 important to determine whether you can make a profit  
14 selling these products or not? And I'm asking that  
15 because I don't know. I'm not the business guy, you  
16 know. I'm just a lawyer.

17 A. Are you asking because you're personally  
18 curious or because it's relevant to our proceedings  
19 here?

20 Q. Both, really.

21 A. As you may be familiar with your car  
22 insurance or homeowner policy, of course, if you ask  
23 an insurance carrier they will eventually be able to  
24 determine for you the necessary requirements.

25 Q. But you haven't investigated that yet, have

1     you?

2             A.   No, I don't need to.   I don't have a product  
3     yet.

4             Q.   But how can you determine whether -- I mean  
5     you've mentioned on several occasions you're looking  
6     to create a product, to sell the product, to pay the  
7     rent.

8                     How do you know whether the business is  
9     going to be profitable unless you know what it's  
10    going to cost you to conduct the business?

11            A.   Uh-huh, that's a very good question.

12                    I think it's really a matter of having  
13    confidence and being able to minimize expenses and  
14    confidence being able to maintain an operation that's  
15    efficient and knowing and feeling confident, okay, if  
16    it's a product I've seen in the marketplace, it's  
17    certainly a profitable product that has been around  
18    for -- sunscreen has been around for a long time, so  
19    if it's a profitable product for a lot of people, I  
20    feel confident I myself can make it a profitable  
21    product.

22                    So to try to get ahead of myself and  
23    calculate numbers seems unnecessary for me.   I'd  
24    rather try to get to step B before I get to step Z.

25            Q.   Okay.   So I think that you said earlier that

1 this was not a recipe, you didn't go down to your  
2 basement and whip up a batch of this stuff; is that  
3 correct?

4 A. That is correct.

5 Q. And that's true even today three years after  
6 you filed your application; is that correct?

7 A. That is correct.

8 Q. Okay. So you really don't know what might  
9 happen if you mix these chemicals in your basement;  
10 is that correct?

11 A. Well, I think what you're asking is, you  
12 know, because I don't know exactly what this is going  
13 to make, I won't have a real product or I don't have  
14 the intent to make a product or I never envisioned  
15 the product, which is not the case.

16 The case is these are some of the, I guess,  
17 components or aspects that seemed appealing to me  
18 initially when I was considering this product for  
19 this business of Maiden Waves.

20 And to try to implement this, again, hiring  
21 a chemist to finalize or to implement these  
22 components or ingredients or active ingredients would  
23 not be any type of hurdle and should not be any type  
24 of hurdle for me to try to have a credible product.

25 And that's, I think, I feel the way things

1 are done to try to be efficient and hiring an  
2 independent contractor. Even though I'm not  
3 personally doing the work myself, my initiative would  
4 allow for me to have a very good product exactly when  
5 I -- when I need it.

6 Q. This document has not evolved in over three  
7 years; is that correct? By this document, I'm  
8 referring to Exhibit 2.

9 A. Correct.

10 Q. Okay. And in fact, in the three years since  
11 you filed your application for the mark SUPER HERO,  
12 you haven't made any progress at all with respect to  
13 developing the product; is that correct?

14 A. Well, I've made lots of progress and I think  
15 that's misunderstood.

16 Progress is actually the process.

17 I'm now here meeting with you in the  
18 deposition. I'm that much closer to finalizing,  
19 getting the application approved. To me it's a lot  
20 of progress, a lot of time invested and a lot of  
21 monetary investment, I guess, if you want to equate  
22 it that way.

23 There's lots of progress made I feel and I'm  
24 very close.

25 If my application had been approved a year

1       ago or two years ago, I'd already have product.

2               So I'm waiting, because for me to spend  
3       money prematurely to me doesn't make sense.

4               Q.    Okay.

5               MR. CASTELLUCCI:  Can you read the question  
6       back, please, and answer?

7               (The record was read by the Reporter.)

8               MR. CASTELLUCCI:  Thank you.

9       BY MR. CASTELLUCCI:

10              Q.    I think maybe we had a disconnect with my  
11       question.

12              My question was directed to developing the  
13       product and by the product, I meant the Class 3  
14       products that you're going -- that you intend to  
15       sell.

16              I think you interpreted the question as  
17       progress through this process that you've been  
18       talking about and I'd like to decouple the question  
19       from the process and I'd like to focus on development  
20       of the product itself.

21              A.    Right.

22              Q.    What you intend to sell as it's reflected  
23       here in your original understanding of what it might  
24       be as reflected in Exhibit 2.

25              A.    Right.

1 Q. So let's focus on -- let's focus on that.

2 You're no closer to a recipe for a product,  
3 a sunscreen product or any Class 3 product than you  
4 were three years ago; is that correct?

5 A. I still don't think that's a correct  
6 interpretation of it. I mean to me, that's not a  
7 correct viewpoint of a product.

8 A product, you have to have a product name,  
9 you have to have a registered trademark name. That  
10 is part of the product that goes on the product.

11 That's part of it.

12 So to me it's impossible to decouple the  
13 process. It's not accurate, it's not a correct  
14 viewpoint to look at it that way.

15 You may be referencing the chemical  
16 composition of the product inside, but what you buy,  
17 you buy packaging as well.

18 So it's not just the whatever sunscreen  
19 materials you buy, you're buying the packaging, to me  
20 you're buying the presentation.

21 So we're still making lots of progress in  
22 this production timeline of finalizing my product.

23 I have made lots of progress and I feel I'm  
24 pursuing and continuing to pursue and finalizing my  
25 product.

1           And to me, the chemical composition is a  
2   small part of the product.

3           Q.   Okay.  Let's take a step back.

4           This document, Exhibit 2, doesn't have the  
5   mark SUPER HERO on it anywhere, does it?

6           A.   No, it does not.

7           Q.   In fact, when you first conceived of this  
8   product, these Class 3 products, you weren't  
9   intending necessarily to use the mark SUPER HERO at  
10   all, right?  It's Maiden Waves Sunscreen, correct?

11          A.   Well, repeat your question, please.

12          MR. CASTELLUCCI:  Can you read back the  
13   question, please?

14          (The record was read by the Reporter.)

15          THE WITNESS:  I wouldn't say that's correct.  
16   That's not correct.

17          It's not necessarily that I had it -- I  
18   can't remember exactly what I was attributing my  
19   impetus for a sunscreen for.  I don't know if it was  
20   exactly for Maiden Waves, but my notes and my  
21   references and my objective was to make a sunscreen.

22   BY MR. CASTELLUCCI:

23          Q.   I'm sorry.  Were you finished?

24          A.   Yes.

25          Q.   A while ago, I asked you whether you had



1     formed a company to manufacture, market and sell  
2     Class 3 products prior to February of 2006 when you  
3     filed your application for the mark SUPER HERO.

4             Do you recall that?

5             A.   Yes, I believe so.

6             Q.   And I believe you responded that you didn't  
7     need a company or a company name necessarily because  
8     what was more important for you was developing the  
9     product and originally, you said that you had  
10    conceived of this as a Maiden Waves sunscreen  
11    formulation; is that correct?  Or did I mishear you?

12            A.   I don't know.  I possibly didn't explain it  
13    correctly.

14            Again, I've not a perfect recollection, and  
15    I'm not sure exactly -- it's hard for me to know the  
16    sequence of things or how things fit together.

17            What I'm trying to do is explain it to you  
18    the best I can and how I think it occurred.

19            I don't know exactly because I don't have a  
20    perfect memory and what I do know is, as a business  
21    person, I feel capable enough to finalize a project  
22    that I begin.

23            Q.   And then you said that the chemical -- just  
24    a moment ago, I believe you said that the chemical  
25    composition of the product isn't very important to

1 you at this point; is that correct?

2 A. Well, again, that's maybe me being a little  
3 loose with my explanation.

4 I'm new at this deposition thing and maybe  
5 that's showing.

6 I'm just trying to speak directly and maybe  
7 too quickly, but I'm just trying to be honest here.

8 It's, of course, a very important aspect of  
9 it, but I felt you were maybe emphasizing that the  
10 actual material inside the packaging as being the  
11 only aspect of the product.

12 And to me, that's not a correct  
13 interpretation.

14 Q. Okay. Why don't you tell me what your  
15 interpretation of the product is.

16 A. Well, I did recently explain that and I  
17 don't know if we can read back to save me from  
18 butchering what I said.

19 Q. Why don't you try to rephrase it in a way  
20 that you think is clear and would explain it to me.

21 A. Well, to me, it's, I think, a combination of  
22 the packaging and the name along with material  
23 inside.

24 Q. Okay. Anything else?

25 A. I don't think so.

1           Q.   So the product is the packaging and the  
2 compounds inside of the packaging?

3           A.   Well, I think, you know, you seem to be  
4 splitting hairs with what the product is and I'm not  
5 sure maybe the legal definitions and distinctions  
6 you're trying to split hairs with, but I'm trying to  
7 explain the business process and the production  
8 timeline and sequence of events that need to be  
9 completed.

10                So, you know, I'm not trying to be difficult  
11 at all, I'm just trying to explain, you know, for me  
12 as an individual, as an entrepreneur, I'm trying to  
13 achieve an objective and that involves not just the  
14 very last item on maybe an objective production  
15 timeline, but all of it, because if you don't do the  
16 thing and do the last thing, you're still not  
17 achieving the objective.

18                Everything has to be done and has to be done  
19 hopefully sequentially to some respect; otherwise  
20 you're wasting time and risking more resources than  
21 you have.

22           Q.   I think I understand where you're coming  
23 from, but I still don't quite understand why it's  
24 necessary to secure this mark SUPER HERO before you  
25 work on this chemical composition and the packaging

1 aspects of this process when originally, your idea  
2 was not to tie these Class 3 products to the mark  
3 SUPER HERO but rather to the Maiden Waves mark.

4 A. I must have misspoke, because that was never  
5 my original intent was to tie it to this particular  
6 Maiden Waves name.

7 You know, that's something that has arrived  
8 or I guess this woman in the room has arrived, I  
9 misspoke there, someone is delivering something.

10 So that was just an interruption I wasn't  
11 expecting.

12 So the -- you know, I think the objective  
13 was to have a sunscreen and my references were not  
14 drawing out of Maiden Waves so much at the time it  
15 was just a reference of previous work that I had  
16 done.

17 So it's not that I was using the trademark  
18 name SUPER HERO for the Maiden Waves product so much,  
19 it was just maybe the referencing my previous  
20 experience with thinking about this Maiden Waves  
21 product, you know, since, to me, they were  
22 separate -- separate initiatives and obviously being  
23 the person that worked on the Maiden Waves, it was  
24 something I was familiar with but had not evolved to  
25 a product yet.

1           Q.   If you had actively engaged a chemical  
2   engineer three years ago, if you had actively engaged  
3   manufacturers and packaging people and you had moved  
4   forward toward creating the product, the chemical  
5   compound and the thing that surrounds it, whether  
6   it's a box or it's a bottle or it's a tube or  
7   whatever, if you had taken those steps three years  
8   ago, I think what you said earlier was you would  
9   already have a product?

10          A.   I feel I would.   I can't be certain, but  
11   that's my intent.

12                My intent was, of course, to finalize and  
13   have packaging and things.

14                My intent was to always try to pursue and do  
15   things correctly, legally.

16          Q.   And move forward?

17          A.   Yeah.

18          Q.   If you had done that, you could have been  
19   selling sunscreen under the Maiden Waves trademark  
20   right now, correct?

21          A.   Well, again, it's all -- for Maiden Waves  
22   you're saying?

23          Q.   Yes.

24          A.   Right.   Well, that's something I've decided  
25   not to do for Maiden Waves.

1           So again, that's all my decision on where I  
2   think things are going and my decision on maybe how  
3   viable a circumstance may be as far as a business or  
4   where I can split my time. Sometimes I have to stop  
5   something because it's not paying me anything and  
6   work on something else and when I come back to it,  
7   maybe, so to say, the fire is old and the iron's cold  
8   and I'm not back into it, I'm on a different track.

9           I don't know whether it's ADD or whatever  
10   you call it but I'm trying to juggle things and  
11   address things when I can.

12          Q. I understand.

13                I'm ready to move on, but before we do, let  
14   me ask you this: Is your intention to manufacture,  
15   market and sell Class 3 products contingent on your  
16   ability to secure the mark SUPER HERO?

17          A. I don't think so, no. My -- contingent,  
18   it's not really something I've thought of before  
19   because I'm certain that I have the right to move  
20   forward with the name.

21                So again, following sequence of events or  
22   trying to be sequential in spending, I feel that it's  
23   not contingent, so to say, because it's not something  
24   I considered before whether or not it's contingent.

25                I feel certain it's going to finalize and a

1 matter of sequencing my timeline with my budget and  
2 having the right timing for that budget.

3 Q. So if you're certain -- let me make sure I  
4 understand.

5 You're certain that you're entitled to this  
6 mark and you're certain you're going to get it  
7 registered, correct?

8 A. Uh-huh.

9 Q. And even though that is true, even though  
10 you believe those statements to be true, you have  
11 done -- you have taken no steps between February of  
12 2006 and February of 2009 to nail down this  
13 formulation or to develop a packaging for the product  
14 that ultimately will be formulated and sold?

15 A. Right. Again --

16 Q. Is that correct?

17 A. No, I don't think that's correct at all.  
18 I've taken many steps.

19 Again, you have to understand here I am  
20 speaking with you today. You're another person  
21 involved in this opposition with me, where I've  
22 already been involved with two other attorneys, I  
23 guess.

24 There's only one of me; at the same time I  
25 have other jobs.

1           So for me I have to address one obstacle at  
2   a time, meaning one fire, so to say, at a time.

3           Your opposition is serving me with papers  
4   and I only have so much time. Unfortunately there's  
5   only 24 hours in a day. Between those times I have  
6   to get a little bit of sleep and have to work and  
7   have to prepare, I guess, responses to some of this  
8   opposition.

9           It may be easy to think there's lots of  
10   time, there's weekends, but if you're working on the  
11   weekends and got all these other obligations, to try  
12   to address a packaging initiative and also a  
13   budgetary situation, you have to plan and be prepared  
14   and really allocate your time fairly, I feel, at  
15   least I have.

16           So to try to suggest there's been no  
17   progress, that's not correct at all.

18           There's been a tremendous amount of progress  
19   and tremendous amount of work on my side to finalize  
20   this project and where all of my efforts,  
21   unfortunately, I have been doing is addressing this  
22   clerical impediment, clerical -- I guess it's a legal  
23   impediment to move forward.

24           Now, if I had 30 hours a day, maybe I would  
25   have an extra couple of hours to work on some other



1 things, but I don't.

2 So what I'm trying to do is remove my  
3 obstacle so then I will then be available and have my  
4 time available to address and move forward with my  
5 efforts to finalize the product.

6 Q. And when you -- okay. Strike that.

7 MR. CASTELLUCCI: Can you read back the  
8 first sentence of that answer, please?

9 (The record was read by the Reporter.)

10 BY MR. CASTELLUCCI:

11 Q. You said you've taken many steps to finalize  
12 the product, I think you said that in the first  
13 sentence of your answer, and you said it in, I think,  
14 in the last sentence of your answer.

15 Do you have any documents that memorialize  
16 the steps you have taken to --

17 A. I'm sorry to interrupt. Finish your  
18 sentence.

19 Q. -- to memorialize your efforts to progress  
20 with the chemical formulation of the product and with  
21 respect to the packaging of the product?

22 A. Well, as I've just said, I've taken  
23 tremendous efforts and lots of memorialized paper  
24 work and that's all in accord with the U.S. PTO  
25 opposition that's going on.

1           And that is exactly the paper work that  
2   should be recognized as my efforts to finalize the  
3   production timeline and production, so to say,  
4   progress of my project and my product.

5           I can't address anything else until I  
6   finalize this paper work. It's obviously -- seems  
7   like not a big thing, but if I have limited time and  
8   the only available time I have to have available is  
9   to address these products, my intent may be to  
10   finalize the project immediately or soon, but unless  
11   I finalize these obligations first I don't have an  
12   extra schedule or extra clone of me to work on  
13   something else on the side.

14           Now, as soon as we finish that and I have  
15   the free additional time to work on it and I have  
16   managed my budget and ready to move forward, when I'm  
17   ready, again, if we didn't have this opposition, and  
18   I wouldn't have to be filing paper work back and  
19   forth, that takes a lot of time and, unfortunately, I  
20   don't get paid an hourly wage to play with papers  
21   like this.

22           So to me, it's been a huge impediment and  
23   it's part of the production, to me, it fits exactly  
24   in.

25           I mean if I had to explain to someone the

1 production of my product, this would take up, I don't  
2 know, half, 45 percent, 75 percent of the time.

3 So this cannot -- all my filings and paper  
4 work submitted memorialize the production of my  
5 product.

6 If you don't see it that way or people  
7 aren't seeing it that way, they're not recognizing  
8 the entrepreneurial efforts that are required to get  
9 a product done.

10 This is part of a product, this process,  
11 this proceeding, unfortunately.

12 So the paper work with the U.S. PTO is  
13 memorializing my efforts and hopefully those can be  
14 referenced and easily be referenced in the U.S. PTO.

15 Q. And I think you said that you're spending  
16 roughly somewhere between 50 and 75 percent of your  
17 time on this project devoted to creating paper work?

18 A. I can't say -- I was loose with my words  
19 there.

20 I can't try to quantify it at this time.

21 I don't have a -- some calendar where I  
22 detail.

23 I was trying to be direct and expressive.

24 I probably broke up my time because I have  
25 to work as a loan broker or real estate broker on the

1 side which unfortunately is not a great industry  
2 right now.

3 So that takes a bit of my free -- a bit of  
4 my work schedule.

5 If I didn't have to play with paper work  
6 from your opposition, then I would be able to address  
7 this, but this is the priority, of course. I can't  
8 move forward. If I don't file the paper work, I  
9 can't finalize the name approval.

10 Q. And without registration of the SUPER HERO  
11 mark, you don't have any intention of producing and  
12 marketing and selling Class 3 products; is that  
13 correct?

14 A. No, that's not correct. I wouldn't say it  
15 that way at all.

16 Again, my intent is to finalize.

17 I'm intent and feel confident I will be  
18 making the product, you know.

19 Q. Let me ask it this way: What's more  
20 important to you, the mark SUPER HERO or having a  
21 product to sell that's going to make you money?

22 A. What's more important? I don't know if I  
23 have a priority list, so to say.

24 I try to address my products together. This  
25 is now -- the name is with my initiative to produce a

1 product.

2 So I'm not trying to split my time and  
3 pursue other avenues.

4 This is something I've started and by my  
5 nature, I started it and I want to see it through,  
6 want to get it done.

7 So obviously, making money is important to  
8 me, I think it's important to everyone, that's why  
9 we're both here at work today.

10 Exactly, that's why I'm trying to follow  
11 through this application. I've committed time and  
12 effort and money to have this approval follow through  
13 and I don't want to see money I've invested and my  
14 time and effort invested just be disregarded.

15 I'd like to think I should be able to be  
16 rewarded for -- and try to have closure on my  
17 application, which I think is rightfully deserving of  
18 an approval.

19 Q. Okay. You've mentioned a couple of times  
20 that mortgage broker industry isn't the greatest  
21 industry to be in right now and you've made mention  
22 of focusing your efforts on what's actually paying  
23 the rent right now, correct?

24 A. Well, that's a subjective, I guess,  
25 subjective viewpoint, you know.

1           It's all dependent on an individual's  
2   situation and again, I'm -- I didn't come here  
3   rehearsed and I don't know exactly how to phrase  
4   things, trying to speak honestly about the  
5   circumstances, you know.

6           Obviously, you have to have investment money  
7   to make an investment and I have my budget and, of  
8   course, I have allocated my budget and recognize, you  
9   know, my timeline hopefully and try to -- try to get  
10  through one obstacle at a time so I can finalize and  
11  move forward.

12          Q.   Okay.   Again, I'm just the lawyer, I'm not  
13  the entrepreneur.

14                I'm wondering if maybe it's not a better  
15  expenditure of your resources to pursue production of  
16  the product and the packaging that's actually going  
17  to be making you money as opposed to pursuing the  
18  mark SUPER HERO and I'm just trying to understand  
19  where you're coming from.

20          A.   I understand.   You say you're asking me not  
21  as the lawyer or the person and the entrepreneur.  
22  Are we addressing the issue involved in the  
23  proceeding?   I don't want to waste your time.   Is it  
24  something we should talk about after or something we  
25  should talk about now?

1           Q. I'm trying to understand the perspective of  
2 an entrepreneur because it's not where I'm coming  
3 from. No one has ever accused intellectual property  
4 lawyers of being risk takers or good business people.

5           I don't know where you're coming from. I'm  
6 on the outside looking in and to me it seems if I  
7 were in your position, I would want to make progress  
8 toward the product that's going to be making me money  
9 and paying my rent as opposed to messing with lawyers  
10 and sitting in a deposition fighting over the mark  
11 SUPER HERO when it appears to me, from the outside,  
12 looking at Exhibit 2, that originally, the idea was  
13 Maiden Waves Sunscreen anyway.

14           So does my --

15           A. I don't know. I mean I'm here to help and  
16 want to be upfront and direct with you.

17           Is my explanation and me giving you my  
18 viewpoints, I mean is this necessary, is this  
19 required that I try to give some explanation of how I  
20 try to make progress? I don't know if it's really  
21 something, you know, my understanding is that, you  
22 know, you're here to directly address what's  
23 happening with the SUPER HERO mark.

24           Now, my entrepreneurial efforts are not  
25 textbook, they're not -- I'm just trying to be an

1 entrepreneur and try to move forward the best I know.

2 Now, I don't have a perfect memory, don't  
3 have a perfect entrepreneurial education.

4 It's something you make up daily and I'm  
5 doing the best I can.

6 Q. Okay. I understand.

7 MR. CASTELLUCCI: Now would be a good time  
8 to take another break. We've been at it for an hour.

9 Why don't we go off the record now.

10 (Whereupon a lunch recess was taken 12:20 to  
11 12:55.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1                   AFTERNOON PROCEEDINGS

2                   (Exhibits Nos. 3 through 5 were marked.)

3       BY MR. CASTELLUCCI:

4           Q.    So I'm handing you a document which has been  
5       labeled Exhibit 3.  This is a document entitled  
6       "Opposer's first set of interrogatories to  
7       applicant."

8                   You can take a moment to review that,  
9       please.

10          A.    That looks familiar.

11          Q.    Those were interrogatories 1 through 27,  
12       they were served on you May 5th, 2008, correct?

13          A.    I don't know the date, but that sounds  
14       right.

15          Q.    Okay.  But that document looks familiar to  
16       you, you've seen that document before?

17          A.    Yes.

18          Q.    Okay.  I'm also going to hand you what's  
19       been marked Exhibit 4, applicant's response to  
20       opposer's first set of interrogatories.

21                   Please take a look at that.

22          A.    Okay.  I've reviewed it.

23          Q.    So have you seen this document before?

24          A.    Yes.

25          Q.    And that is your responses to the opposer's

1 interrogatories, it's dated June 6, 2008, correct?

2 A. Correct.

3 Q. And it looks as if you declined to answer  
4 every single interrogatory, correct?

5 A. It may look that way, but I was trying to  
6 make a good faith effort to supply something in  
7 regards to a difficult timeline that I had.

8 And not responded, not familiar with formats  
9 so I tried to do something that was efficient, but  
10 still informative.

11 Q. So everything -- every response includes the  
12 statement that the interrogatory called for  
13 excludable or privileged information, correct?

14 A. I'm not certain. I'll have to review, but  
15 you're telling me that's what you've seen.

16 Q. It appears to me that way. I may have  
17 miscounted, but --

18 A. Okay. Yeah, that seems to be --

19 Q. That's correct, okay.

20 In declining to answer, you cited the  
21 Federal Rules of Civil Procedure 26(b)(5), B like  
22 bravo, and the work product privilege; is that  
23 correct?

24 A. That is what I included on these.

25 Q. When you responded to these interrogatories

1 in June of 2008, what was your understanding of the  
2 work product privilege as you called it?

3 A. It seems to be an incorrect understanding.  
4 I was under a very difficult timeline and I was  
5 trying to respond very quickly, but with good  
6 intentions to label things which I thought at that  
7 time were, I guess, excludable from my understanding.

8 Again, I didn't have anyone counseling me  
9 and I was trying to be efficient to format things so  
10 that I could get something submitted.

11 And I'm assuming I've made errors in my  
12 basis or grounds for my understanding, but it's just  
13 something I was trying to learn quickly and had  
14 limited time to understand.

15 Q. Okay. Did you do any research as you recall  
16 on what the work product doctrine meant?

17 A. I don't think so.

18 My memory is that I had to move very  
19 quickly.

20 I want to respond and supply satisfactory,  
21 sufficient answers and to my understanding, I was  
22 trying to move quickly and submit something.

23 Q. Do you remember what you thought work  
24 product meant at the time?

25 A. You know, it wasn't -- do I remember what I

1 thought what I meant.

2 I think I remember not understanding exactly  
3 what it was and I think I was just going with  
4 something to quickly recognize that I didn't have  
5 anything to supply.

6 Q. Okay. So were you using this as shorthand  
7 as an indication that you didn't have a response to  
8 the interrogatory?

9 A. I don't think that should be the universal  
10 understanding.

11 I was trying to submit something. I didn't  
12 have time to do research, I didn't have time to write  
13 out sentences.

14 I tried to, I guess, address each question  
15 correctly, but because of my time constraint, I  
16 didn't have maybe the time to entertain a longer,  
17 more informed answer.

18 Q. I understand.

19 So I'd like to explore some of the same  
20 issues with respect to your understanding of Rule  
21 26(b)(5).

22 Did you think you had an understanding of  
23 what was appropriately excludable under Rule  
24 26(b)(5)?

25 A. At that time, I don't think I did.

1 I was -- you know, I knew I didn't have an  
2 exact understanding and, you know, I'm new to this.

3 So I was trying to relate that I didn't have  
4 anything and I wanted to be at least attempting to  
5 try to be -- to be observing, I guess, the format or  
6 type of legal opposition that this was.

7 So I was trying to move quickly and submit  
8 something that would be correct, but again, I'm not  
9 trying to say that I know the work product.

10 Q. How about Rule 26(b)(5) which is what we're  
11 talking about here? Had you reviewed Rule 26(b)(5)  
12 before you prepared your first response, applicant's  
13 response?

14 A. I don't think so. I don't think so.

15 Q. Okay. I would like to hand you now what has  
16 been marked Exhibit 5.

17 That is a document entitled "Applicant's  
18 amended/supplemental responses to interrogatory  
19 numbers 1 through 27."

20 A. Uh-huh.

21 Q. Please take a moment to review that.

22 A. Okay.

23 Okay. I have reviewed it.

24 Q. Have you seen that document before?

25 A. Yes.

1           Q.   Okay.   Why did you supplement your  
2 responses?   And this document is dated October 2nd,  
3 2008, which is a couple of months after your original  
4 responses in June of 2008.

5                   Why did you supplement your responses?

6           A.   From my memory, I think I received notice or  
7 a brief or some communication from the opposition  
8 detailing that my answers were unsatisfactory and of  
9 that nature.

10                   And so I wanted to revisit it and try to  
11 take some time to allocate a better understanding of  
12 what I needed and wanted to say.

13                   And again, it's a learning process for me,  
14 so I think that's what I was trying to address here.

15           Q.   Okay.   I would like at this time to step  
16 through the supplemental responses and make sure that  
17 those responses are still accurate today in February  
18 2009, as accurate today as they were in October of  
19 2008.

20                   So if I can ask you to turn to  
21 interrogatories 7, 14 and 19 --

22           A.   The questions or just the answers?

23           Q.   Take a look at the interrogatories  
24 themselves.

25           A.   Questions.

1 Q. That would be Exhibit 3.

2 A. Exhibit 3 or question 3?

3 Q. Exhibit 3, question 7.

4 It's on page 7.

5 A. So of the same paper work? Just this packet  
6 of paper, interrogatories?

7 Q. Page 7, question 7 down at the bottom,  
8 describe the average consumer whom applicant believes  
9 is most likely to be interested.

10 A. Okay.

11 Q. I'd like you to take a look at your  
12 response, which is Exhibit 5, page 1, 7, in response  
13 to this interrogatory, you indicated and I'm quoting  
14 "No average income, age or profession of the average  
15 consumer is important to the applicant."

16 A. Okay. I see that answer.

17 Q. Okay. I read that correctly, correct?

18 A. Yes.

19 Q. And is that still an accurate answer to  
20 interrogatory 7?

21 A. Let me see what the question says again.

22 Well, what I was trying to explain was that  
23 selling a product, I'm not trying to discriminate  
24 amongst a consumer, you know.

25 Of course, I'm not trying to discriminate

1 with people that have lots of money and people that  
2 have less money. If they can afford a product, it  
3 seemed like a sale and I would like to sell the  
4 product.

5 Q. Okay. Let me go off on a quick tangent  
6 here.

7 That would probably not be true in your real  
8 estate business or your mortgage broker business?  
9 What I mean by that is there are certain buyers out  
10 there who are looking at houses, mortgages that have  
11 much greater value than others, correct?

12 A. That is correct.

13 Q. And would you target your advertising  
14 according to --

15 A. It's actually illegal to discriminate in  
16 real estate and mortgage. You can't discriminate  
17 between people that have money and don't have money.

18 You're required to entertain and service all  
19 inquiries.

20 Q. Okay. Service is one thing, but providing,  
21 say, promotional or marketing material you might not  
22 show a person who is in the market for a \$400,000  
23 house marketing material directed to your  
24 multi-million dollar estates that are for sale,  
25 correct?



1           A.   Actually, again, it's discrimination.  You  
2   can't do that.  It's called red lining, where you're  
3   only showing people because you think based on their  
4   income they only fit here.  You're not allowed to be  
5   discriminatory.

6           Q.   Okay.  That's interesting.

7                    So your response to interrogatory 7 was  
8   intended to convey that you would not want to  
9   discriminate against people, for example, based on  
10  average income, age or profession.

11                   Is that what you were intending to convey  
12  with your response to interrogatory number 7?

13           A.   At that time, I believe so, and I think that  
14  that was what I was trying to communicate, that --  
15  yeah, I mean it's not something where you need to  
16  discriminate to sell a product.

17           Q.   Okay.  Let's look at page 8 of Exhibit 3,  
18  there is interrogatory 14.  That's your Exhibit 3.

19                   I'm going to be shifting from Exhibit 3 to  
20  Exhibit 5, by the way.

21           A.   These two, yeah, it does help.

22                   So Exhibit -- I'm sorry.

23           Q.   Exhibit 3, page 8, interrogatory 14.

24           A.   Right.

25           Q.   And I would like you to read that, please.

1           A. "Identify and describe the consumers  
2       (identified by gender, age, group education level and  
3       socioeconomic status) to whom applicant has sold or  
4       plans to sell each of these products or services."

5           Q. Now, shifting back to Exhibit 5, at the  
6       bottom of page 1, your response was that "Applicant  
7       plans to sell its product to all consumers no matter  
8       what gender, age group, education level or  
9       socioeconomic status they hold. No product has been  
10      sold yet."

11          A. Yes.

12          Q. Let's take that in two steps.

13               First, no product has been sold yet, that's  
14      still accurate?

15          A. Correct.

16          Q. Okay. Now, with respect to the first  
17      sentence, is that an accurate reflection of your  
18      intent at this point in February of 2009?

19          A. Yeah, I would think so. It takes me time to  
20      understand what exactly the sentence is saying, but  
21      essentially, again, I'm trying to reiterate that I'm  
22      not going to discriminate.

23          Q. Let's go back to Exhibit 3, please, page 9  
24      and the interrogatory I'm interested in is 19.

25          A. Okay, I have read it.

1           Q. And this interrogatory is asking whether you  
2 had conducted any market studies, survey or opinion  
3 poll concerning the market SUPER HERO; is that  
4 correct?

5           A. Uh-huh, that is what it's asking.

6           Q. Okay. Let's go back to Exhibit 5, please,  
7 page 2, your response reads "No market study by  
8 applicant or anyone acting on applicant's behalf has  
9 ever conducted a market study, survey or opinion poll  
10 concerning SUPER HERO or opposer's marks"; is that  
11 correct?

12          A. That is what it reads.

13          Q. Is that still an accurate answer?

14          A. Yes, it is.

15          Q. Okay. When I take all of those  
16 interrogatories together with your answers, what I  
17 come away feeling is that demographics are not  
18 important to your marketing efforts.

19                 Is that accurate?

20          A. I don't know -- I don't think that would be  
21 accurate.

22                 I mean you're trying to -- you're trying to  
23 pinpoint and exclude saying demographics are not  
24 important, even though what I was trying to relate is  
25 that, you know, I'm looking for people with, I guess,

1     disposable income which would be all consumers,  
2     consumers, I guess, people with disposable income.

3             So you know, demographics, I think when with  
4     I'm explaining a study and if you're talking about  
5     demographics, it makes me believe that you're  
6     referencing some type of business plan I've broken  
7     things down to demographics and sales and things like  
8     that which to me can be sometimes unnecessary  
9     depending on the development of the project, the  
10    timeline of when that needs to come in, but also  
11    recognizing what product it is.

12            To me, my feeling and my understanding is  
13    that sunscreen is an important product and even a  
14    demographic study would not be necessary for my  
15    intention of selling a product.

16            Q.   Do you have -- okay.

17            Let me try it this way: Do you have a  
18    specific demographic target in mind?

19            A.   Well, to me, demographic refers to just -- I  
20    guess I need an exact definition of demographic.

21            Are you talking about ethnicity or ages or,  
22    you know, what's quantifying demographic exactly so I  
23    can answer the question?

24            Q.   That's fair.

25            Let's start with age.

1           Let's say -- and I'll provide an example.

2           Let's say you were targeting Class 3  
3 products to 80-year-old retirees who live in Arizona  
4 and go out on a golf course and need sunscreen a lot,  
5 okay, on the one hand.

6           On the other hand, you were trying to target  
7 college students who are going to Daytona Beach for  
8 spring break and need sunscreen for a week out of the  
9 year.

10           Would you have different approaches to  
11 packaging and marketing the product if you were going  
12 after one of those groups as opposed to the other?

13           A. To me, it doesn't seem necessary, that no, I  
14 wouldn't. I don't know, it seems like other options  
15 or other -- not options, but other specifics about  
16 people, I mean everyone has skin.

17           So it doesn't seem necessary everyone's  
18 going to need it. It seems like it would be a  
19 limiting factor for sales to me to pinpoint one.

20           I don't think I would want to confine my  
21 sales to just that one small demographic.

22           Q. So in developing a marketing campaign, in  
23 developing a packaging for the product, it would be  
24 important for you to target that marketing to create  
25 the packaging in such a way that you've addressed as

1 broad an audience as possible; is that accurate?

2 A. I would think so, yeah.

3 Q. And so with respect to the SUPER HERO mark  
4 in particular, would you suspect that kids, say,  
5 under 12 years old, would be more drawn to that mark  
6 than, perhaps, an 80-year-old retiree in Arizona?

7 A. No, I wouldn't say for sure. I mean I don't  
8 know. What I know is what I detailed in my responses  
9 here that, for me, the word of mouth, grassroots-type  
10 of marketing would be the most effective, one person  
11 trying it, recognizing it works well would just give  
12 that reference, very effective and cost efficient way  
13 to sell a product.

14 So just by having someone explaining it's a  
15 good product, other people would just take it upon  
16 that recommendation and adopt it.

17 Q. Okay. And with respect to your other  
18 business activities, Maiden Waves, for example, and  
19 your business -- was it QTK?

20 A. Uh-huh.

21 Q. Had you relied on grassroots marketing  
22 efforts with those businesses?

23 A. Yes, I have.

24 Q. And exclusively?

25 A. No, not exclusively.

1           Q. Is it your intention with respect to  
2 marketing these Class 3 products under the SUPER HERO  
3 mark to rely exclusively on a grassroots marketing  
4 effort?

5           A. I think so, because from my experience,  
6 seems to be the most cost effective, really the most  
7 cost effective way to do a sale.

8                   You're not paying for advertising and  
9 everything that's involved with that.

10          Q. You think that might limit your  
11 distribution?

12          A. I don't.

13          Q. Okay. Now, I'm back to Exhibit 3, please  
14 I'd like you to turn to page 10, top of page 10  
15 there's interrogatory 25.

16          A. Okay.

17          Q. Interrogatory 25 reads "State whether  
18 applicant or anyone acting on applicant's behalf has  
19 made any effort to exploit or commercialize any  
20 product or service under SUPER HERO, and if so,  
21 provide particulars."

22                   Did I read that correctly?

23          A. Yes.

24          Q. Thank you.

25                   If you turn to page 2 of Exhibit 5, down

1 near the bottom, your answer to interrogatory number  
2 25 reads "Neither applicant nor anyone acting on  
3 applicant's behalf has made any effort to exploit or  
4 commercialize any product under SUPER HERO."

5 A. Okay. That's what it reads.

6 Q. Is that still an accurate answer?

7 A. Well, commercialize, again, it all comes  
8 down to the definition of maybe exploiting,  
9 commercialize.

10 I'm still, myself, not anyone else, but  
11 myself, I'm still in the process of trying to, I  
12 guess, commercialize, I'm trying to, meaning trying  
13 to proceed with this application process.

14 So to me that's my -- that's an effort --  
15 that's an effort to pursue the end goal of sale.

16 So maybe I didn't explain that or detail it  
17 well, meaning it should read also in reference to, I  
18 think, my proceedings of the opposition.

19 Q. I'm sorry. Were you finished?

20 A. Yes, I'm sorry.

21 Q. So are you changing your answer to  
22 interrogatory 25?

23 A. Well, I'm just trying to understand and read  
24 it.

25 I don't think I'm changing it. I'm just



1     trying to understand or elaborate maybe on your  
2     question of updating the status because you were  
3     asking me maybe if anything has changed, correct.

4           Q.   Well, I'm asking -- well, let me try it this  
5     way:  When you provided your response to  
6     interrogatory 25, you essentially parroted the  
7     language of interrogatory 25, correct?

8           A.   Yes.

9           Q.   Okay.  What did you understand your answer  
10    to mean at the time that you provided the answer in  
11    October of 2008?

12          A.   Right.  I think the actual selling of the  
13    product, I believe, I think, at that time, that's  
14    what I understood commercializing, to make it a  
15    product for sale.

16                So I'm still in the midst of doing the  
17    preparation for my intention, my original intention  
18    to sell.

19          Q.   Okay.  And in that regard, if we can go back  
20    to Exhibit 2, which was your Maiden Waves Sunscreen  
21    document, the -- that Maiden Waves Sunscreen document  
22    has not evolved since February of 2006?

23          A.   No, it has not.

24          Q.   And the list of constituent chemical  
25    compounds has not changed since February of 2006?

1 A. No.

2 Q. And you have not engaged a chemical engineer  
3 since February of 2006?

4 A. I have not.

5 Q. And you have not -- you have not engaged a  
6 marketing firm since February of 2006?

7 A. No, I have not.

8 Q. Okay. Let's move on to -- before we do  
9 that, you have not engaged any firm to help you with  
10 packaging of the product as you envision it since  
11 February of 2006, have you?

12 A. I have not.

13 Q. So let's move on to -- let's flip back to  
14 Exhibit 3, please, actually, you should still be on  
15 page 10, interrogatory 27 reads "Has applicant taken  
16 any steps toward manufacturing, distributing, selling  
17 and/or promoting any products or services under the  
18 SUPER HERO trademark? If so, please describe such  
19 steps."

20 Did I read that correctly?

21 A. Yes.

22 Q. Let's flip back to Exhibit 5, still same  
23 page 2, down at the bottom.

24 Your response to interrogatory reads  
25 "Applicant has not taken any steps toward

1 manufacturing, distributing, selling and/or promoting  
2 any products under the SUPER HERO trademark."

3 Did I read that correctly?

4 A. It is read correctly.

5 Q. Okay. Is that answer still accurate?

6 A. I think, again, it needs to include the  
7 steps of me pursuing this opposition, because that's  
8 a very important step in producing the product.

9 So that is a step towards manufacturing.

10 I mean if we're trying to split words here,  
11 split hairs, however we want to say it, pursuing this  
12 opposition is steps for me to then follow up with  
13 manufacturing, distributing and selling.

14 To me, maybe it needs to be slightly  
15 revised, I have taken steps and the steps are  
16 engaging this opposition for the trademark approval.

17 Q. Okay. So we addressed this issue a little  
18 bit earlier and maybe I wasn't clear.

19 Do you see resolution of this opposition  
20 matter as a precondition for going forward with  
21 manufacturing, distributing, selling and/or  
22 promoting -- actually, let me rephrase that.

23 Do you see resolution of this trademark  
24 matter -- of this opposition matter as a necessary  
25 precondition for following up on manufacturing,

1 distributing, selling and/or promoting of the  
2 products?

3 A. Well, for the sequential steps, I would like  
4 to have this approval and then proceed and my  
5 intention is to proceed.

6 Q. And if this -- if this opposition proceeding  
7 goes against you and you do not get an opportunity to  
8 register the mark SUPER HERO for Class 3 products --

9 A. Right.

10 Q. -- is it still your intention to follow up  
11 taking steps toward manufacturing, distributing,  
12 selling and/or promoting any products?

13 A. Well, I haven't really considered that. My  
14 intention was always to have this name and the  
15 product together and I see no reason to really  
16 consider that opposition being denied or the  
17 opposition being successful.

18 I think I will be successful. I have an  
19 application that has merit and I intend on following  
20 through and producing the product.

21 Q. And you would intend on following through  
22 and producing the product even if this opposition is  
23 successful and you don't get an opportunity to  
24 register the mark?

25 A. No, I didn't say that. I didn't say that.

1           I haven't considered that and I guess that  
2       would be something I would have to think about in the  
3       future.

4           To me, it was never a consideration. It  
5       seems like I have no doubt that I'll be successful  
6       and it seems just a matter of time. I know we have  
7       to go through the legal measures, but following  
8       through should not be a problem.

9           Q. Okay. And if you are successful in this  
10      opposition, at that time -- well, it is your  
11      intention at that time to follow up with taking steps  
12      toward manufacturing --

13          A. Well, it's my intention at this time right  
14      now to follow through.

15               And it was when I initially filed my  
16      application.

17               I mean my intention when I filed the  
18      application was to have a business and to sell a  
19      product.

20          Q. Okay. And so with respect to documenting  
21      your intention to have the business and to sell a  
22      product, do you have any documents, do you have any  
23      correspondence, that reflects that intention other  
24      than the two-page Maiden Waves document you've  
25      produced to us?

1           A. Well, I believe I also reference U.S. PTO  
2 application and at this time, I'm not remembering any  
3 other documents, but again, I'm -- I don't intend on  
4 having any type of opposition, so I'm not really  
5 documenting and to think that it would be any type of  
6 requirement.

7           Q. Okay. Let me hold off on that train of  
8 thought and we will come back to that.

9                     Requests for admission, you filed some  
10 requests for -- we, the opposers, filed a first set  
11 of requests for admission to applicant and we served  
12 those -- those were served on you May 5th, 2008.

13           MR. CASTELLUCI: I'm going to ask the court  
14 reporter to mark this as Exhibit 6.

15                     (Exhibit No. 6 was marked.)

16 BY MR. CASTELLUCCI:

17           Q. Please take a moment to look at that, it's a  
18 11-page document entitled "Opposers' first set of  
19 requests for admission to applicant."

20           A. Okay. That looks familiar.

21           Q. You've seen that document before?

22           A. Yes, I have.

23           Q. Now, I'd like to --

24           MR. CASTELLUCCI: I'd like to get this  
25 marked Exhibit 7, please.

1 (Exhibit No. 7 was marked.)

2 BY MR. CASTELLUCCI:

3 Q. You're now being handed what's been marked  
4 Exhibit 7.

5 Exhibit 7 is a shorter document, looks like  
6 it's four pages, entitled "Applicant's response to  
7 opposer's first set of requests for admission."

8 A. Uh-huh.

9 Q. Have you seen this document before?

10 A. Yes, I have.

11 Q. I'd like to take a look at -- so it looks  
12 like you denied pretty much everything in these first  
13 101 requests for admission; is that correct?

14 A. The majority, yes.

15 Q. I am seeing four admits.

16 Do you see four admits?

17 A. Yes, I do.

18 Q. Okay. And the first three are actually  
19 requests for admission 1 through 3; is that accurate?

20 A. Yes.

21 Q. Okay. So on page 2 of Exhibit 6, the first  
22 request for admission reads "Admit that applicant is  
23 not currently using SUPER HERO on any skin care  
24 products"; is that correct?

25 A. Yes, it is.

1 Q. And is your admission still accurate?

2 A. Yes, it is.

3 Q. Okay. Request for admission 2 reads "Admit  
4 that applicant is not using SUPER HERO on or in  
5 connection with any products or services."

6 Did I read that accurately?

7 A. Yes.

8 Q. And is your admission still accurate?

9 A. Yes, it is.

10 Q. And the request for admission 3, "Admit that  
11 applicant has not used SUPER HERO in commerce."

12 Did I read that accurately?

13 A. Yes.

14 Q. And is your admission still accurate?

15 A. Yes.

16 Q. I would like to flip through page 8, please,  
17 of Exhibit 6, down to the other admission.

18 Well, the other statement that was admitted,  
19 request for admission 81.

20 Request for admission 81 reads "Admit that  
21 applicant is not aware of any third party using SUPER  
22 HERO (or any similar trademark) as a trademark or  
23 service mark."

24 Did I read that accurately?

25 A. Yes.



1 Q. And you admitted that; is that correct?

2 A. That is correct.

3 Q. So I read that as applicant, you, as having  
4 no knowledge of any third party using the SUPER HERO  
5 mark; is that correct?

6 A. Correct.

7 Q. Okay. So if you turn to -- and by the way,  
8 so requests 1 through 3 and 81 are the only requests  
9 for admission that you admitted; is that correct?

10 A. Correct.

11 Q. Okay. So if we could turn to page 7 of  
12 Exhibit 6, I'd like to look at request for admission  
13 65 and 66.

14 A. Uh-huh.

15 Q. And I think I'd just like to clarify a few  
16 things.

17 A. Uh-huh.

18 Q. And in 81, you admitted you are not aware of  
19 any third party using the SUPER HERO mark?

20 A. Uh-huh.

21 Q. And in 65, you were asked to admit that you  
22 are not aware of any third party using or proposing  
23 to use SUPER HERO in connection with skin care  
24 products?

25 A. Uh-huh.

1 Q. And you denied that and it seems that's  
2 inconsistent with your admission in 81.

3 Am I missing something?

4 A. I don't know. I think the way I was reading  
5 it was that since I filed my application for SUPER  
6 HERO, the opposition has filed their MY FIRST SUPER  
7 HERO application, I've been given notice of that.

8 So that's what I was recognizing, I believe.

9 Q. Okay. So was it the proposing to use that  
10 caused you to deny the statement in 65?

11 A. I don't understand, what does proposing to  
12 use mean?

13 Q. Okay.

14 A. Why is that distinctive or different than  
15 what we were just talking about?

16 Q. It's different from the statement in request  
17 for admission 81, request for admission 81 does not  
18 include the phrase "or proposing to use."

19 A. I'm missing the point. What's the  
20 difference? I'm referring to that --

21 Q. What I'm trying to get at is why did you  
22 deny request for admission 65 and request for  
23 admission 66? Was it related to your understanding  
24 of the opposers pursuing the mark MY FIRST SUPER  
25 HERO?

1           A. Yeah, let me read this again and understand  
2 it, but I'm pretty sure that's what I was  
3 considering.

4           Right. I think for 65 and 66, as I'm  
5 reading it and it's the proposing that I think from  
6 learning of the opposition's MY FIRST SUPER HERO,  
7 that to recognize that as something that I know.

8           Q. Okay. And you were aware of that in -- you  
9 were aware of the opposer's application in June of  
10 2008?

11          A. I'm not sure exactly. I haven't looked at  
12 the dates or when they filed or when I was given  
13 notice, but I remember I was given notice pretty  
14 quickly about that.

15          Q. Your recollection, as you sit here today, is  
16 that you believe that when you denied requests for  
17 admission 65 and 66, you were thinking of the  
18 opposer's prospective use of the mark MY FIRST SUPER  
19 HERO; is that correct?

20          A. Right. Again, I'm trying to understand how  
21 this is reading, but essentially after I submitted my  
22 application, I know the opposition followed up with  
23 their application and recognizing that I was informed  
24 of now the opposition's new application for a new  
25 mark name.

1 Q. Okay. Let's move on.

2 A. And I think that seems to be what it -- I  
3 haven't looked at this paper work in a while, but I'm  
4 pretty sure that's what I was considering.

5 Q. Okay.

6 MR. CASTELLUCCI: So I'd like to get these  
7 marked, please.

8 (Exhibits Nos. 8, 9 and 10 were marked.)

9 BY MR. CASTELLUCCI:

10 Q. You've been handed Exhibits 8, 9 and 10.

11 Exhibit 8 is a copy of opposer's first  
12 request for production of documents to applicant  
13 dated May 5th, 2008. These are requests number 1  
14 through 35.

15 Please take a moment to review that  
16 document.

17 A. This is that document.

18 Q. You've seen this document before?

19 A. Yes.

20 Q. Okay. And I'd like you to take a look at  
21 what has been marked Exhibit 9, which is applicant's  
22 response to opposer's first request for production of  
23 documents.

24 This is dated June 6, 2008?

25 A. Okay. Looks familiar.

1 Q. You've seen this document before.

2 And take maybe a little more time with  
3 Exhibit 9. It looks as though you declined to  
4 produce any documents responsive to opposer's first  
5 requests for documents, correct?

6 A. Correct, seems to be.

7 Q. And in many instances, in declining to  
8 produce the documents, you cited work product as the  
9 nature of the privilege underlying the reason why you  
10 weren't producing documents, correct?

11 A. Uh-huh, yes.

12 Q. And as with your responses to the  
13 interrogatories, you believe now that maybe your  
14 belief then was -- was uninformed regarding what the  
15 scope of the work product doctrine actually is?

16 A. Correct. I think that is the nature.  
17 Again, I don't have time to study and learn exactly  
18 the definitions and it was not my intention to try to  
19 submit paper work incorrect.

20 I don't have, again, attorneys working for  
21 me, so I was trying to submit something so I could be  
22 conforming within the timeline and try to put format  
23 things that seem to address the questions A through  
24 G, I guess.

25 So the sub A and answer seem to have the

1 nature of a privilege or some nature of an  
2 explanation and I felt I had to put something.

3 So I think that was my understanding.

4 Q. Okay. Subsequent to your submission and  
5 your serving of these responses in June of 2006, did  
6 you do any research, come to my realizations  
7 regarding the scope of what is protected under the  
8 work product doctrine?

9 A. Not that I remember.

10 Q. Are you finished?

11 A. Yes.

12 Q. Okay. The reason I'm asking is because I'd  
13 like you to turn to Exhibit 10 now, please, which is  
14 a document entitled "Applicant's amended/supplemental  
15 responses to opposer's document request numbers 1  
16 through 14, 16 through 30 and 35."

17 A. Uh-huh.

18 Q. This is a substantially shorter document  
19 dated October 2nd, 2008.

20 And it's, I guess, it's three pages long.

21 Have you seen that document before?

22 A. Yes.

23 Q. Okay. And why did you supplement your  
24 responses in October?

25 A. Well, I think it was a similar situation to

1 the other responses I amended where the timeline and  
2 my personal circumstances during the initial  
3 responses of Exhibit 9 were just a problematic,  
4 difficult timeline for me.

5 And I felt that -- I can't remember if I  
6 received a brief or something that pointed out that  
7 they weren't satisfactory.

8 I can't remember at this time why I had to  
9 or needed to or decided to revisit it, but I know  
10 that I had maybe more time to consider my answers. I  
11 didn't have a lot of time, but I was able to address  
12 some of the items.

13 Q. Okay. I'd like to -- so now, in Exhibit 10,  
14 you indicated with response -- with respect to  
15 certain document requests, you indicated there are no  
16 documents available?

17 A. Uh-huh.

18 Q. Or no documents applicable?

19 A. Uh-huh.

20 Q. You provided a little bit more detail with  
21 respect to some of the other requests for documents,  
22 correct?

23 A. Correct.

24 Q. And with respect to the supplemental  
25 responses, at least, you did not cite work product as

1 a basis for withholding any documents; is that  
2 correct?

3 A. I have not reviewed it answer by answer, but  
4 that is probably the case, if you say so.

5 I don't see any mention of that on the  
6 supplemental.

7 Q. I would like you to -- at page 1 of  
8 Exhibit 10, your response to document request 12,  
9 reads "Applicant has no documents concerning any  
10 effort to exploit or commercialize any product under  
11 SUPER HERO."

12 Did I read that correctly?

13 A. Yes.

14 Q. Is that still your answer? Is that answer  
15 still accurate?

16 A. I believe so, yes.

17 Q. And let's take a step back and consider this  
18 answer, this response.

19 In light of your expansive understanding of  
20 what it might mean to commercialize a product, okay,  
21 and that would include documents that are associated  
22 with or relevant to this opposition proceeding,  
23 correct --

24 A. Uh-huh.

25 Q. -- is this answer, this response to document



1 request 12 still accurate?

2 A. In regards to me waiting to finalize this  
3 opposition, so I can finalize my product, I guess,  
4 yes, it is.

5 Q. Okay. As you sit here today, are you aware  
6 of any additional documents that might be in your  
7 possession or in your control that might be  
8 responsive to any of these document requests that you  
9 haven't provided to us?

10 A. Right. I don't think about this on a daily  
11 basis, as far as what I need to supply and what's  
12 around, but I really don't think so.

13 Q. Okay.

14 A. Again, my understanding I submitted the  
15 application as intent to use, I have a bona fide  
16 intent and I don't believe there was any type of  
17 timeline for me to have a product in circulation.

18 So I've been trying to go through the steps  
19 and get this first hurdle addressed so I can finalize  
20 my product.

21 Q. Okay. Let me tell you why I'm asking, okay.

22 Fairly late in this proceeding in response  
23 to the opposer's motion to amend the notice of  
24 opposition, okay, you opposed that motion and you  
25 produced this Maiden Waves document that we've been

1 talking about, marked as Exhibit 2, correct?

2 A. Correct.

3 Q. Late in this proceeding?

4 A. Correct.

5 Q. Okay. What I'm trying to explore here is  
6 whether you have additional documents that you might  
7 consider using at trial or intend to use at trial  
8 that you haven't produced yet.

9 And so my question to you is: Are there  
10 additional documents that you are aware of that are  
11 within your control that you might consider using at  
12 trial or you would like to have an opportunity to use  
13 at trial, but that you have not produced yet?

14 A. I don't think so.

15 Q. Okay. At the end of the day, when it's time  
16 to fly to Washington, D.C. and go across the river to  
17 the Patent and Trademark Office and the Trademark  
18 Trial and Appeal Board asks you what evidence you  
19 have of your intent to use circa February of 2006, is  
20 your response going to be I signed this declaration  
21 and you'll have to take my word for it?

22 A. Well, I'm not certain. You are talking  
23 about a timeline in the future and I can't predict  
24 exactly what the -- what the timeline at that future  
25 time would allow me or have me explain.

1 I've never been to that proceeding, I don't  
2 know what they would be requiring of me.

3 So I can't answer something I'm not familiar  
4 with.

5 Q. Okay. Let me try to clarify what I'm  
6 getting at.

7 Yes, I'm talking about some future event,  
8 but I'm talking about documents that exist or might  
9 exist in the past.

10 A. Uh-huh.

11 Q. December 2005, if that's what -- if that's  
12 your time frame.

13 What I care about is February 2006, okay.

14 When you signed a declaration stating that  
15 you had an intent to use the mark SUPER HERO in  
16 commerce, okay, that declaration is what it is.

17 A. Uh-huh.

18 Q. It is a document that you submitted with the  
19 Patent and Trademark Office and the Patent and  
20 Trademark Office presumably is going to take you at  
21 your word.

22 A. Uh-huh.

23 Q. Okay. If -- so this is an adversarial  
24 proceeding, right, an inter parte proceedings between  
25 two parties.

1           If a skeptical adversary were to ask you for  
2 contemporaneous documentation, by contemporaneous, I  
3 mean at the time, February 2006, if that adversary  
4 asked you for contemporaneous documentation of your  
5 intent to use, is it your intention to provide this  
6 two-page Maiden Waves Sunscreen document that is  
7 marked as Exhibit 2?

8           A. Uh-huh.

9           I'm sorry, continue.

10          Q. That was the end of my question. Is it your  
11 intention to rely on this document, Exhibit 2, as  
12 evidence of your intent to use?

13          A. Again, I'm not relying on just that. Again,  
14 I'm relying on the application, the application where  
15 I detailed it's my bona fide intent to use this, and  
16 I'm expecting them to judge my application based on  
17 all the other applications that go through as a bona  
18 fide intent to use this, and I'm expecting them to  
19 judge my application based on all the other  
20 applications that go through as a bona fide intent to  
21 use, that as -- that as, I guess, is defined, that in  
22 the future, once it's approved within a reasonable  
23 time frame, I will have my product finalized and  
24 submit evidence of the final product in commerce for  
25 them to recognize that's why, you know, they offer an

1 application with an intent to use so that they will  
2 consider it after I go through my time frame to  
3 finalize a product in commerce.

4 So I feel that they will weigh my  
5 application as it was submitted, the opposition which  
6 I've spent lots of time and effort and money as an  
7 equal weight or weigh that aspect of it as showing  
8 and evidencing my intent to use and my development of  
9 the product.

10 I don't do this for fun, you know, I've got  
11 better things to do than take up people's time with  
12 paper work.

13 So obviously, with the U.S. PTO's  
14 guidelines, that as I move forward with my  
15 application, the bona fide intent to use application,  
16 I've submitted it correctly and that I should be  
17 approved for it.

18 Q. Okay. I appreciate your answer. I don't  
19 think it was directed exactly to the question I  
20 asked.

21 I'm going to try to rephrase the question.

22 In -- if we were to look at a snapshot in  
23 time and that snapshot in time I'm going to delineate  
24 as February of 2006, I'm going to look at that  
25 window, during that time, you filed an intent to use

1 application for the mark SUPER HERO?

2 A. Uh-huh.

3 Q. And with respect to that application, you  
4 filed -- you signed a declaration?

5 A. Uh-huh.

6 Q. Correct?

7 A. Uh-huh.

8 Q. Okay. And you intend to rely on that  
9 declaration and that trademark application as  
10 evidence of your intent to use the mark in commerce;  
11 is that correct?

12 A. Yeah, that's what it's submitted for.

13 Q. Okay.

14 In addition to that trademark application  
15 and that declaration, do you also expect to introduce  
16 this Maiden Waves Sunscreen document that we've  
17 marked as Exhibit 2 here as evidence of your intent  
18 to use the mark in commerce?

19 A. Well, it sounds like you're trying to talk  
20 about hypotheticals and I just don't think that's  
21 appropriate for this timeline, you know.

22 We talk about hypotheticals and it's  
23 something where I don't think it's necessary to even  
24 discuss those because we're going through this  
25 application process and the opposition.

1           And I've supplied my paper work  
2   appropriately and there's no reason, I feel, to  
3   discuss hypotheticals at this time.

4           Q.   Okay.   And I'm a little confused.

5                   In what way do you consider my question a  
6   hypothetical question?

7           A.   Well, from my understanding of the  
8   definitions, is that you're considering something in  
9   the future, what if this happened, this happened,  
10   what if.

11                   So --

12           Q.   Okay.   I think I understand.

13                   It is not my intention to confuse the issue  
14   with hypotheticals.

15                   I am trying to determine what evidence you  
16   intend to present to the Trademark Trial and Appeal  
17   Board that you believe supports your case that you  
18   have an intent to use this mark in commerce.

19                   And that you had in 2006, in February of  
20   2006, when you filed the application, a bona fide  
21   intent to use the mark in commerce.

22                   We are trying to avoid a situation where we  
23   show up and you pull out 140 pages of documents that  
24   we've never seen before that you are asserting  
25   support the contention that circa February 2006, you

1 had a bona fide intent to use the mark SUPER HERO in  
2 commerce.

3 So my question to you is: Do you have  
4 documents, in addition to the documents that we've  
5 been discussing here today, that we haven't seen  
6 before, that you intend the -- that you believe  
7 support your position that you had a bona fide intent  
8 to use this mark in commerce circa February of 2006?

9 A. Right. As I explained before, you know,  
10 these are the paper work that we've discussed and  
11 what's available, what I presented.

12 So you know, I can't, I guess, understand  
13 your question exactly, but the paper work that I've  
14 supplied to the U.S. PTO and what is presently here  
15 is, to my understanding, what I have to present, you  
16 know.

17 I mean it's, I think, in the scope and in  
18 the application of the bona fide intent to use  
19 application, valid and has merit, I have a timeline  
20 of my application that gives me priority of right and  
21 that's going to be weighed and understood that my  
22 intent to use the product with my background as an  
23 entrepreneur will allow me and show the board that I  
24 have, I guess, some experience to work within the  
25 business realm and produce the product quickly and



1 efficiently.

2 Q. Okay. Thank you.

3 So let's move on. I've got some questions  
4 we can knock out I hope pretty quickly.

5 I'll try to the -- I think we covered a lot  
6 of this before. I think a lot of this is in your --  
7 in the discovery responses, but I would just like to  
8 kind of bang through some of these questions pretty  
9 quickly and hopefully we can make some headway.

10 At the time you filed -- well, do you want  
11 to take a break first before --

12 A. No.

13 Q. Let's roll through this, then.

14 At the time you filed in application in  
15 February of 2006, had you investigated sources of the  
16 materials that you might need to produce these  
17 products?

18 A. Well, my general background with -- with  
19 Maiden Waves, you know, I wouldn't say investigate,  
20 but just my previous experience with the Maiden Waves  
21 document was something that I had worked on  
22 previously, it wasn't something that I was  
23 immediately referencing because I didn't need to,  
24 just being in -- being the one that worked on it  
25 previously was, I think, giving me the background to

1 decide to move forward with this.

2 Q. I appreciate your answer. That's not  
3 exactly what I -- wasn't exactly what I asked.

4 So I'm -- the question is really directed to  
5 the sources of the raw materials that you were going  
6 to need to create the product.

7 Did you talk to chemical manufacturers? Did  
8 you talk to people who provide packaging, for  
9 example?

10 A. No.

11 Q. Okay. Did you know at the time what you  
12 might need to manufacture the products and sell the  
13 products?

14 A. I think an understanding of just the basic  
15 business, production necessities. You look at a  
16 product like a bottle of water, well, you need the  
17 plastic bottle and you need the label, you need a cap  
18 and then you need the material.

19 So with that understanding, I had my list of  
20 products, so to say, as you suggest and from there,  
21 at the appropriate time, with my true intent to  
22 finalize the product, I could have easily and will  
23 easily finish it when I'm finished with this  
24 opposition.

25 Q. So you had a list of materials that you

1 need, you need a bottle, a label and a cap.

2 You had a list of things that you were going  
3 to need to --

4 A. I never said I had a list. I never said I  
5 had a list, I'm sorry, you misheard me or I misspoke,  
6 but I never said that.

7 I said as you would look at a plastic bottle  
8 and you package it, you could easily assess what is  
9 needed.

10 I mean I don't think everything needs to be  
11 written down, we're all fairly intelligent people,  
12 you don't need to write down what to do every single  
13 day all the time.

14 Q. You have no documentation that you had a  
15 list or a checklist of things that you were going to  
16 need to take this -- take this project forward?

17 A. I don't believe so.

18 Q. Okay. At the time you filed this  
19 application, in February of 2006, had you  
20 investigated the costs of manufacturing Class 3  
21 products?

22 A. No. Again, through my experience as an  
23 entrepreneur and I understand there's expenses and  
24 determining that is based on a sale price and seeing  
25 other viable products in the marketplace and that

1     that would be a -- not an insurmountable  
2     complication.

3           Q.   Okay.  But as you sit here today, you don't  
4     know what a sales price would be for the products  
5     you're contemplating?

6           A.   Well, that's, of course, the nature with all  
7     products, is that the pricing is always changing,  
8     especially in this economic times.

9                So you could decide upon a price -- it would  
10    be really unnecessary and is unnecessary to try to  
11    determine a price before you have finalized the  
12    product, because prices will change, of course.

13               So to pursue and expend the time to do all  
14    that effort, and time or whatever is invested is not  
15    essential, because in the future, that has to be  
16    addressed to update the circumstance.

17           Q.   Okay.  At the time that you filed your  
18    application, back to February of 2006, where were you  
19    planning on manufacturing the product?

20           A.   As a professional, I was thinking that a  
21    professional, of course, outsourcing would be the  
22    appropriate circumstance to do.

23           Q.   Okay.  In the three years since you filed  
24    your intent to use application, have you made any  
25    business contacts in connection with anticipated

1 manufacturing of the products?

2 A. Well, there's been no need to, no need to,  
3 because I'm still absorbed in my time, in my schedule  
4 with addressing the opposition.

5 So if I didn't have this opposition, I'm  
6 assuming that I would have in a timely fashion and I  
7 address things as soon as possible.

8 So that will be addressed immediately upon  
9 the finalization of this opposition.

10 Q. Okay. And I take your answer to mean that  
11 prior to your filing date in February of 2006, you  
12 hadn't investigated any business contacts with  
13 respect to manufacturing?

14 A. Well, again, in regards to the sequence of  
15 timeline, it was not necessary at that time.

16 Again, it's being sequential and doing  
17 things, even though I had considered and understood  
18 and had the full intention of doing it and I still  
19 do, to address it in its appropriate timeline.

20 Q. Okay. Prior to the February of 2006 filing  
21 date, had you conducted any studies or market  
22 research on -- regarding manufacturing of similar  
23 products in Class 3?

24 A. No.

25 Q. Did you, prior to -- okay.

1           And since 2006, have you done any of that,  
2       conducted any studies or market research?

3           A.   No.   I mean I looked and, you know, when I'm  
4       looking at things, it's hard not to be observant of  
5       things, but no, no hired professional study.

6           Q.   Okay.   And then, so prior to February of  
7       2006, had you researched any local or federal  
8       requirements regarding manufacturing of Class 3  
9       products?

10          A.   You said researched?

11          Q.   Researched.

12          A.   Right.   I wouldn't say researched.

13                You know, understanding that there would  
14       potentially be some obligations, but, again, knowing  
15       to address those at the appropriate time.

16          Q.   Okay.   So as you sit here today, you don't  
17       have any idea what the costs associated with  
18       manufacturing the product you're thinking of  
19       manufacturing might be; isn't that true?

20          A.   Well, I think I should have some concept of  
21       it.   I think we all should or could.

22                Again, I haven't researched it, because  
23       within the timeline, it has to be -- would need to be  
24       updated, so I don't think I would want to do research  
25       twice unnecessarily.

1 Q. Okay. Would that matter whether -- would  
2 that change if you were targeting college students on  
3 spring break in Daytona Beach versus, you know, a  
4 mother of young children who lives in Florida all  
5 year long and needs sunscreen on a regular basis?

6 A. What would change?

7 Q. Your price point.

8 A. I don't think so. Again, I'm trying to make  
9 my product as universally acceptable to all  
10 consumers.

11 Q. Okay. I'm sorry. Were you finished?

12 A. Yeah.

13 Q. At the time you filed this application in  
14 February of 2006, had you investigated any costs  
15 associated with selling the products?

16 A. Well, I feel like investigated, again, is  
17 kind of another word that needs to be defined so  
18 much, investigated, you know, understanding and  
19 seeing how the word of mouth grassroots, that's an  
20 understanding of the cost of selling a product.

21 So that was understood and seeing that as  
22 the best viable way to sell product effectively.

23 Q. Okay. Were you planning on selling the  
24 product yourself?

25 A. I would consider that where I was going and

1     what I intend on doing.

2             Q.    Okay.    So prior to February of 2006, you  
3     think that was your intention and today, you think  
4     that was your intention?   And by "that," I mean  
5     selling the products yourself.

6             A.    Well, selling the product myself, meaning  
7     recognizing that I am the one initiating the effort  
8     to sell and trying to get it out in the marketplace,  
9     yes.

10            Q.    So did you have -- prior to February of  
11     2006, did you have aspirations of distributing this  
12     product in stores, retail stores, for example?

13            A.    I don't think so.   Again, I was pretty  
14     focused and still focused on the grassroots type of  
15     distribution and sale.

16            Q.    So does that mean, as you're sitting here  
17     today, does that mean that you're envisioning selling  
18     this product out of your basement?

19            A.    Well, out of my basement, I don't think  
20     anyone wants to come down to my basement to buy some  
21     products, so that seems unrealistic or not really the  
22     right take on it.

23                    When I say, you know, by referral, of  
24     course, that's people talking to people and  
25     recommending the product and, in effect, I could make



1 the sale at any location. It's not necessary to, you  
2 know, be in a particular location.

3 Q. Okay. Were you anticipating having a  
4 warehouse?

5 A. Well, again, envisioning product sales and  
6 everything, it's a matter of recognizing timeline and  
7 volume and what's going to be required when, you  
8 know.

9 To try to make plans for a warehouse before  
10 you have the product to put in the warehouse is  
11 premature, as far as finalizing the obligations and  
12 priorities you have.

13 Q. Okay. I think what you said just a minute  
14 ago was your intent in February of 2006 was to sell  
15 the product in accordance with this grassroots  
16 marketing effort; is that accurate?

17 A. Uh-huh.

18 Q. As of the date that you filed your  
19 application in February of 2006, you had not formed a  
20 company to handle these sales, to deal with those  
21 sales; is that correct?

22 A. Well, specifically, I -- having more than  
23 one business, I understood that I could have options  
24 on where to sell it or from which entity to sell it,  
25 I believe, when the time became appropriate.

1           So you know, I have options of where to make  
2     those sales from, from which entity, so that could be  
3     easily coordinated when the product is ready for  
4     sale.

5           Q.   Okay. And as you sit here today, it is not  
6     your intention to buy shelf space at a pharmacy or  
7     buy shelf space at a retail store and sell the  
8     products through those channels; is that correct?

9           A.   I would think that is correct.

10          Again, it's something where I feel the most  
11     effective, efficient way is to do grassroots  
12     marketing and thereby remove the unnecessary cost so  
13     that I would be able to increase the profit margin,  
14     so to say.

15          Q.   Okay. Is that a relatively recent  
16     development in the evolution of your intent to use  
17     this mark in commerce?

18          A.   I don't think so, no.

19          I think I've always considered that.

20          Q.   Okay. I just want to go through  
21     supplemental responses to interrogatories, numbers 1  
22     through 27, Exhibit 5, please.

23          On page 1 of Exhibit 5, your supplemental  
24     answer -- supplemental response, excuse me, to  
25     interrogatory 6 reads "Channels of trade for intended

1 sales include distributors, retail stores and  
2 Internet sales."

3 A. I do remember that.

4 Q. Okay. That's inconsistent with what you  
5 just told me, isn't that true?

6 A. Yeah. I think what I was trying to do is  
7 explore and keep in mind the options available to a  
8 business person as a product evolves, of course, and  
9 understand what is available for sales.

10 Q. So are you changing your supplemental  
11 response to interrogatory 6?

12 A. Okay. Well, I just need to understand what  
13 the question for interrogatory number 6 says so I can  
14 interpret exactly.

15 Q. Let's look at Exhibit 4. No, I apologize,  
16 it's Exhibit 3. Opposer's first set of  
17 interrogatories, on page 7, interrogatory 6 reads  
18 "Describe all channels of trade through which  
19 applicant's products or services are, or are intended  
20 to be, distributed from applicant on through to the  
21 ultimate purchasers or users of such products or  
22 services."

23 I read that correctly, didn't I?

24 A. Yes.

25 Q. And your response to that interrogatory --

1     rather your supplemental response reads "Channels of  
2     trade for intended sales include distributors, retail  
3     stores and Internet sales," correct?

4             A.    Yes.

5             Q.    Isn't that inconsistent with what you just  
6     told me a couple of minutes ago?

7             A.    Well, I must have, again, doing these fairly  
8     quickly or as quickly as possible, I see myself  
9     easily either misreading something or confusing it as  
10    far as understanding what would be required -- not  
11    required, but what is -- what is being asked of me or  
12    the business, you know, as an option.

13            So I think I probably included that to  
14    reference an option that it could be sold as or sold  
15    as a future prospect as an option.

16            Q.    But the interrogatory was really addressing  
17    your intent, not just what your visions of possible  
18    options might be, correct?

19            A.    Okay.

20            Q.    So I guess -- well, I mean my question still  
21    is: Are you changing your response to interrogatory  
22    number 6?

23            A.    I guess I'd have to reference that it's not  
24    correct in maybe the way intended or was trying to  
25    relate or read or answer the question honestly.

1           It's a matter of me trying to review the  
2           question and move quickly and I did these all very  
3           quickly, that's why the first time my answers were in  
4           such a formatted type of response.

5           I must have potentially misinterpreted, but  
6           referencing that as an option, that type of sales  
7           would be an option.

8           Q.   Okay.   So you've mentioned on a couple of  
9           occasions that as you were responding to opposer's  
10          discovery requests and by discovery requests, I mean  
11          these interrogatories, the requests for admission and  
12          the document requests, you had mentioned a couple of  
13          times that you burned through them pretty quickly and  
14          were really sort of under time pressure as you were  
15          preparing your responses.

16          Have you subsequently been back through the  
17          requests and reviewed your responses to those  
18          requests?

19          A.   I have not.

20          Q.   Okay.   You recognize that it's complicated  
21          for us to understand what you intend to argue at the  
22          Trademark Trial and Appeal Board if we don't know  
23          whether your discovery responses are going to change,  
24          correct?   I mean do you recognize that?

25          A.   Sure, I do recognize that.

1           Q.   And what I'm trying to get a sense for here  
2   is what in your responses we can rely on and what may  
3   change between now and the hearing on this matter.

4                   And can you help me understand?

5           A.   Well, if that's -- maybe you could help me  
6   at the same time.

7                   I mean I'm here to do it the right way and,  
8   you know, if you see any other inconsistencies, we  
9   can talk about them.

10          Q.   Do you understand that going forward through  
11   this process, you have -- let me ask the question:  
12   Do you believe that going forward, you have an  
13   obligation to supplement your responses if you have  
14   reason to believe they're no longer accurate?

15          A.   Yeah, I feel that's an obligation.

16                   I'm trying to act in good faith with the  
17   board and that's why I've taken the time to make  
18   supplemental responses and try to get things accurate  
19   and it takes time, as you're familiar with, to  
20   actually get these responses together.

21                   So I'm observant of my obligations to act as  
22   honestly as possible.

23          Q.   Okay.   Thank you.

24                   With respect to your supplemental response  
25   to interrogatory 6, you think that maybe that one

1 just kind of slipped through the cracks because you  
2 were going quickly?

3 A. I'm looking at it at this time. That seems  
4 to be the case, you know.

5 Again, I wish I had all day and I could  
6 reference things and read statutes and, you know, do  
7 things as professionally as possible.

8 It's just not humanly possible for me.

9 Q. I understand.

10 So since you were -- so your estimated costs  
11 associated with selling these products is virtually  
12 nothing; is that accurate?

13 A. Can I take this call?

14 MR. CASTELLUCCI: Off the record.

15 (Recess taken 2:21 to 2:25.)

16 BY MR. CASTELLUCCI:

17 Q. Mr. Silver, at the time you filed this  
18 application in February of 2006, did you believe that  
19 you could turn a profit manufacturing, marketing and  
20 selling these Class 3 products?

21 A. Yes.

22 Q. Did you know how much it was going to cost  
23 to produce per unit? Yes or no.

24 A. Per unit, no.

25 Q. Did you know how much consumers would be

1 willing to pay per unit? Yes or no, please.

2 A. No.

3 Q. As you sit here today, do you know the  
4 answers to those questions? Yes or no, please.

5 A. It's hard for me to just say yes or no,  
6 because the real answer for me is that I felt  
7 confident that there is a way to turn a profit and  
8 that is what I rely on and that's my intention and I  
9 see that as a very easy proposition to turn a profit  
10 and make it a viable business.

11 Q. How do you know that if you don't know what  
12 customers would be willing to pay and you don't know  
13 how much it's going to cost to produce?

14 A. Because I'm an optimist and I feel it's  
15 possible and we live in America and I'm going to get  
16 the right pricing and have the right product and be  
17 able to sell it with a convincing referral by a  
18 grassroots word-of-mouth marketing.

19 Q. Okay. And you don't have any documents to  
20 support that optimism, do you?

21 A. I don't know. Do you really need  
22 documentation to support optimism?

23 Q. I would kind of like to see some  
24 documentation to support a cost to produce per unit.

25 A. Okay. Well, some people need it and feel



1 they are relying upon that. I don't feel that I'm  
2 needing or relying upon that.

3 And that's just my personal preference, you  
4 know.

5 Some people conduct business in one way and  
6 other people conduct business in another way.

7 So I don't think there's just one right way  
8 to conduct business.

9 If you thought that everyone conducted the  
10 right business and you think the big established  
11 companies like who knows, maybe a business bank like  
12 Citibank was a business operation so I know that's  
13 not the case. I can have a beautiful business plan  
14 like they did, but it obviously isn't worth the paper  
15 it's written on.

16 Q. I understand, okay.

17 Speaking of Citibank, let's talk about  
18 finance.

19 At the time you filed this application in  
20 February of 2006, had you investigated or done  
21 research or contacted any sources of the financing  
22 that you might need to conduct the business?

23 A. Well, financing, you know, if you want to  
24 define it as lines of credit or things like that, no,  
25 I had not, but I have my own resources, financial

1 resources to fund my own projects.

2 Q. Okay. Let me ask it a different way.

3 Had you approached any banks regarding  
4 financing this business?

5 A. I had no need to approach any banks.

6 Q. Okay. Had you approached any venture  
7 capitalists regarding financing?

8 A. No need to. If you rely upon them, you get  
9 involved with an equity position, potentially, or  
10 you're getting high rates. I would rather fund  
11 things through my own financing, own savings and  
12 that's the best way for me to move forward.

13 Q. Okay. So you were relying on personal  
14 finances and personal lines of credit?

15 A. I never said personal lines of credit. I  
16 said personal finances, my own budgeting.

17 Q. Thank you.

18 Did you consult -- I'm back to February of  
19 2006.

20 As of February of 2006, had you consulted  
21 legal counsel?

22 A. No.

23 Q. Okay. And I think I asked this and I think  
24 I know the answer, but had you consulted an insurance  
25 agent?

1           A. Unnecessary at that time. No, I had not.

2           Q. And since then, you haven't consulted an  
3 insurance agent?

4           A. Well, as I referenced before, you know, I  
5 have experience in business and it's unnecessary to  
6 consult an insurance agent. At that time, again,  
7 with previous business experience and knowing how it  
8 works, I understood that it was unnecessary to  
9 contact an insurance agent at that time.

10                 I had full intention to and feel confident I  
11 will.

12           Q. And so after you're closer to your final  
13 formulation of the product, then perhaps you might  
14 seek the assistance of legal counsel and/or an  
15 insurance agent; is that correct?

16           A. Well, again, you're speculating a bit. Not  
17 knowing the timeline, it's -- of course, you need  
18 insurance to sell a product. That's understood with  
19 any product. It's not a requirement necessarily to  
20 have legal counsel to sell a product.

21                 So I don't know, that's something  
22 hypothetical, again, in the future I would address at  
23 a future time.

24           Q. So with respect to -- let's go back to the  
25 example of the salmonella based on peanut butter.

1           If your proposed formulation causes skin  
2 cancer or just causes your customers to break out in  
3 a rash, you don't know what your potential liability  
4 might be as you sit here today.

5           That's correct, isn't it?

6           A. No, that's not correct at all.

7           Again, as a professional business person, I  
8 understand that I have to have a product that's  
9 accountable in the marketplace and understanding that  
10 is an obvious business risk to have it properly  
11 either tested and certified or insured.

12           Those are typical ordinary business  
13 procedures to have that finalized.

14           Again, it's all within a matter of  
15 experience and understanding what's required and to  
16 make the product of satisfactory quality.

17           I'm not familiar, really, with the  
18 salmonella issue.

19           I've heard it's headline news, but I haven't  
20 read any articles about it, but comparing that, to  
21 me, is inappropriate, because that's a situation  
22 where it's a different product and a different  
23 company and I don't know about it, again, but to try  
24 to reference and insinuate maybe my product would be  
25 of that caliber is incorrect, it's not the case at

1 all.

2 Q. I'm not insinuating anything. Please don't  
3 get me wrong.

4 What I'm asking is: In order for you to  
5 bring this product to market, to go from where you  
6 are right now to bring the product to market, you  
7 can't tell me whether that's going to cost you \$5,000  
8 or whether that's going to cost you \$5 million as you  
9 sit here today, can you?

10 A. Well, no one could realistically tell you  
11 that.

12 I mean I could try to tell you a number or  
13 anyone could tell you a number, but until you  
14 actually do it, no one is going to know for sure  
15 because pricing is changing all the time.

16 As a business person, you have to recognize  
17 that. Again, to try to research something and get  
18 ahead of yourself before your timeline is a waste of  
19 time, waste of money and waste of resources.

20 So no one can tell you right now what it's  
21 going to be because tomorrow it changes.

22 I don't know there's other options of  
23 futures or lots of different ways to buy products.

24 So I'm -- it's a matter of addressing the  
25 issues when they're appropriate.

1           Q. If you knew today that it were going to cost  
2 you \$10 billion to bring this product to market,  
3 would you be here fighting with a lawyer all day  
4 today?

5           A. Talking today about hypotheticals, again,  
6 \$10 billion, I'm here to talk about relevant issues  
7 and relevant circumstances and numbers. To bring up  
8 situations like that is not worth my commenting on,  
9 not something I want to discuss or waste your time  
10 on, you know.

11                   It's a matter of understanding what's  
12 practical and move forward with that.

13           Q. Right, but isn't understanding whether it's  
14 even feasible for you to bring this product to  
15 market, isn't that relevant?

16           A. It is very relevant and it is very feasible.

17                   And I'm --

18           Q. How do you know that?

19           A. Through my past business experience and  
20 understanding, maybe what my budget is and what I  
21 feel that I can save for and what I feel that I could  
22 probably do things with and being optimistic and  
23 understanding that it's not a hurdle and people often  
24 make products with small budgets and it's not a  
25 complication.

1           Throwing big numbers like that, I mean I'm  
2   sure that big corporations, that's something that's  
3   always a requirement, that you have to have huge  
4   numbers to create a product, \$10 billion or something  
5   ridiculous like that.

6           It's not a requirement in all circumstances  
7   and it's something that obviously an individual,  
8   small business person has to recognize and understand  
9   and move forward confidently and optimistically it  
10   can be achieved and again through my past references  
11   of my own business experience.

12          Q.   Okay.   Let's move on.

13           I think I asked you this earlier, I'm  
14   going -- I certainly asked it with respect to the  
15   other marks.

16           I'm going to ask with respect to SUPER HERO,  
17   have you sought to license the SUPER HERO mark?

18          A.   I have not.

19          Q.   So you have not engaged in any negotiations  
20   with any other person or entity regarding the  
21   licensing of the mark?

22          A.   I have not.

23          Q.   Okay.   Let's move -- I'm wrapping up here, I  
24   just want to -- I want to talk a little bit about  
25   you've relied in several places on your education and

1 your experience and your schooling as sort of guiding  
2 you in this entrepreneurial vein through your  
3 businesses and I would like to ask you a little bit  
4 about that.

5 What level of education do you possess?

6 A. I wouldn't say -- just to preface it, it's  
7 not necessarily all education and whatever  
8 background.

9 It's also just common sense and street  
10 smarts and that's visible every day with ordinary  
11 people creating very quality products everywhere, you  
12 know.

13 I mean I can't think of -- remember any off  
14 the top of my head, but I remember hearing or can --  
15 the bringing of quality products to the market by  
16 small individuals.

17 So to address your question, you wanted  
18 exactly what --

19 Q. I would like to talk about your education a  
20 little bit.

21 Did you graduate from high school?

22 A. I did graduate from high school.

23 Q. Okay. Did you graduate from college?

24 A. I did graduate from college.

25 Q. Which college did you attend?



1           A.    I went to U.C. Santa Barbara.

2           Q.    Okay.  Fun school from what I hear.

3           A.    That's what I hear, too.

4           Q.    Banana slugs?

5           A.    That's Santa Cruz.

6           Q.    That's Santa Cruz, okay, sorry, apologies.

7                So Santa Barbara.  What is your mascot at  
8 U.C. Santa Barbara?

9           A.    Big Gaucho.

10          Q.    So you attended UCSB and you graduated?

11          A.    Yes.

12          Q.    Okay.  What was your degree in?

13          A.    Political science international -- with an  
14 emphasis in international relations.

15          Q.    Okay.  And I think you said that you had  
16 some -- you had a class in chemistry.

17                Was this in college?

18          A.    That is college.  Several classes in  
19 chemistry.

20          Q.    Several chemistry classes.

21                Do you recall what they were?

22          A.    I took the general chemistry series and then  
23 also the organic chemistry series.

24          Q.    So is that four semesters?

25          A.    You know, Santa Barbara was on quarter

1 system, so it was, I guess, two years or each series  
2 was a year.

3 So --

4 Q. It was eight quarters?

5 A. I guess, I don't know what it was.

6 Q. Okay. And so political science,  
7 international relations, I take it that was a  
8 Bachelor of Arts or Bachelor of Science?

9 A. Bachelor of Arts.

10 Q. B.A., okay.

11 Did you do any graduate work?

12 A. I have.

13 Q. Okay. Where did you attend grad school?

14 A. I've been to more than one grad school.

15 Q. Okay. Let's take the first one.

16 A. First one was San Francisco Law School.

17 Q. SF Law School.

18 Right on. Did you graduate? Do you have a  
19 law degree?

20 A. I did graduate, yes, I did.

21 Q. J.D.?

22 A. Correct.

23 Q. And when was that?

24 A. 2000.

25 Q. And did you receive any honors or awards at

1 SF Law School?

2 A. Yes, I did.

3 Q. Can you run through those for me, please?

4 A. I received Constitutional law, American  
5 Jurisprudence.

6 Q. American Jurisprudence award?

7 A. Right.

8 Q. And that's an award for the highest grade in  
9 the class?

10 A. Correct.

11 Q. Any other awards or accolades?

12 A. As a result of that, I did get a scholarship  
13 for a year of study.

14 Q. Okay. And any other awards?

15 A. No.

16 Q. Were you part time or full time -- so San  
17 Francisco Law School?

18 A. Uh-huh. It's a part-time institution.

19 Q. Is that a law school that's accredited by  
20 the American Bar Association, do you know?

21 A. I should know that, but I'm not certain.  
22 I've not taken the bar.

23 Q. You did not sit for the California Bar?

24 A. I did not, no.

25 Q. Have you sat for any bar?

1           A.    I have not.

2           Q.    Okay.  Let me think about this.

3                So it was a part-time -- a part-time course,  
4 part-time study?

5           A.    Correct.

6           Q.    How long did it take you to graduate, do you  
7 recall?

8           A.    Yeah, it took five years.

9           Q.    Five years at night?

10          A.    Correct.

11          Q.    Were you working full time during the day?

12          A.    Yes, I was working for myself.

13          Q.    Okay.  Are you aware of any differences  
14 between the curriculum offered at San Francisco Law  
15 School versus any other law school you can name?

16          A.    I'm not familiar.  I didn't research it,  
17 really, honestly.

18                I'm not familiar with it.  I haven't looked  
19 into it.

20          Q.    Did you, as part of the requirement for  
21 graduating with a J.D. from San Francisco Law School,  
22 were you required to take a course on the federal  
23 rules of evidence?

24          A.    I think so.  Again, my memory is bad and law  
25 school wasn't an easy experience for me or so much to

1 say a pleasant experience.

2 Q. I understand that. I definitely understand  
3 that.

4 Okay. So as you sit here today, you don't  
5 recall whether you took a class on the federal rules  
6 of evidence?

7 A. I really should, but I took civil procedure.  
8 I mean, again, I don't think about it and I haven't  
9 thought about it in a long time and it's not -- as I  
10 said, it was not an easy situation for me.

11 So I don't -- I don't think about it often.

12 Q. Okay. And so you said that you had attended  
13 several grad schools?

14 A. Uh-huh.

15 Q. And you've got a J.D. from San Francisco Law  
16 School.

17 What other schools did you attend?

18 A. I have been to San Francisco State for  
19 business school.

20 Q. State business, okay.

21 So did you complete your course work there  
22 and obtain a degree?

23 A. I did not. I transferred to University of  
24 Nevada Reno business school and continued there, but  
25 did not finish the M.B.A. course or the M.B.A.

1 curriculum and not finished it to this date.

2 Q. But you have course work at two  
3 institutions, San Francisco State and University of  
4 Nevada Reno?

5 A. I transferred the credits.

6 Q. Okay. And -- but you do not have -- and  
7 were you pursuing a Master's in business  
8 administration?

9 A. Correct, it was an M.B.A. course.

10 Q. Okay.

11 A. Both institutions.

12 Q. But you have not completed it yet?

13 A. Correct.

14 Q. Any other schools?

15 A. I think that's it.

16 Q. So you don't recall any other course work  
17 that you've done post college?

18 A. Well, there's course work for real estate  
19 broker's license.

20 Q. And is that -- is that offered through  
21 universities?

22 A. No, it's just independent, you know, it's a  
23 vocational school.

24 Q. Okay. During law school, had you thought  
25 about sitting for the bar exam?

1           A.   No.   It was not my, how do you say, forte.

2                   I didn't -- I was not focused on it to sit  
3   for the bar.   So I never intended on sitting for the  
4   bar.

5           Q.   Did you take any intellectual property  
6   courses?

7           A.   I don't think so.   I don't think so.

8                   I mean right now I'll say no.   I'd have to  
9   look, but I don't think so.

10           MR. CASTELLUCCI:   Can we go off the record  
11   for a couple minutes?

12           THE WITNESS:   Yes.

13                   (Recess taken 2:48 to 2:51.)

14   BY MR. CASTELLUCCI:

15           Q.   Mr. Silver, just a few more questions for  
16   you.

17                   Does -- are you aware of -- well, let me ask  
18   it this way:   Is the Trademark Trial and Appeal Board  
19   aware that you have a law degree?

20           A.   I don't know.   I don't think so.

21           Q.   Okay.

22           A.   I don't know if that's important.

23           Q.   In your discussions with the interlocutory  
24   attorney who is handling this case, I'm looking for  
25   his name --

1           A.   Andrew Baxley, right?

2           Q.   That is ringing a bell.

3                   In your discussions with the interlocutory  
4 attorney, has it come up in your conversations that  
5 you have a law degree?

6           A.   Not to my memory.

7           Q.   And as far as you recall, you never -- you  
8 never told --

9           A.   Yeah, I'm not an attorney, I'm not  
10 practiced, I'm not really -- I'm not experienced as  
11 an attorney.

12                   And though I have the education, it  
13 certainly is -- I don't practice and I'm not  
14 experienced with the paper work and I certainly don't  
15 try to pretend that I have any type of expertise in  
16 filing applications, because I don't, you know.

17                   It's something new to me and at the same  
18 time, the fact that I went to law school doesn't mean  
19 that I retain and know everything in the book.

20           Q.   I understand that. I was just curious as to  
21 whether that had come up during the course of your  
22 conversations.

23           A.   If it had, I feel that, you know, there's no  
24 reason for me hold it in confidence. I mean I would  
25 talk about it, but just like my business degree --



1 not my business degree, but my business schooling has  
2 not come up either.

3 Q. I think that's all the questions I have for  
4 you. What I did want to make sure we got on the  
5 record is I know you had an agreement with Michelle  
6 Morris regarding our reimbursing you for your travel  
7 time down here today for your miles down here.

8 A. Good.

9 Q. I have a check for \$64.46.

10 My understanding was that that was the  
11 amount that you and Michelle had agreed upon.

12 A. That works. Thanks for doing that.

13 Q. Get that to you.

14 A. Thank you.

15 Q. And I don't have any more questions for you.

16 A. Okay.

17

18 (Whereupon, at 2:54 p.m. the MONDAY, FEBRUARY  
19 23, 2009 deposition of MICHAEL CRAIG SILVER was  
20 adjourned.)

21

22

23 MICHAEL CRAIG SILVER

24

25

1 I, LOUISE MARIE SOUSOURES, duly authorized to  
2 administer oaths pursuant to Section 2093(b) of the  
3 California Code of Civil Procedure, do hereby  
4 certify: That the witness in the foregoing deposition  
5 was by me duly sworn to testify the truth in the  
6 within-entitled cause; that said deposition was taken  
7 at the time and place therein cited; that the  
8 testimony of the said witness was reported by me and  
9 was hereafter transcribed under my direction into  
10 typewriting; that the foregoing is a complete and  
11 accurate record of said testimony; and that the  
12 witness was given an opportunity to read and correct  
13 said deposition and to subscribe the same.

14 Should the signature of the witness not be  
15 affixed to the deposition, the witness shall not have  
16 availed himself or herself of the opportunity to sign  
17 or the signature has been waived.

18 I further certify that I am not of counsel, nor  
19 attorney for any of the parties in the foregoing  
20 deposition and caption named, nor in any way  
21 interested in the outcome of the cause named in said  
22 caption.

23 DATED: Louise Marie Sousoures 2009

24 LOUISE MARIE SOUSOURES,  
25 CSR. NO 3575

\$	124:16 19 (2) 100:21;104:24 1b (7) 43:9,12,13;44:5, 17;45:12;47:4	124:19 2009 (6) 57:7;60:13;85:12; 100:18;104:18; 167:19 23 (1) 167:19 24 (2) 32:15;86:5 25 (6) 109:15,17;110:2, 22;111:6,7 26b5 (5) 96:21;98:21,24; 99:10,11 27 (4) 95:11;99:19; 112:15;144:22 275 (2) 29:17,20 2nd (2) 100:2;124:19	50 (1) 89:16 55 (2) 63:15;65:5 5th (3) 95:12;116:12; 122:13 6 6 (14) 9:18;96:1;116:14, 15;117:21;118:17; 119:12;122:24; 144:25;145:11,13, 17;146:22;148:25 65 (6) 119:13,21;120:10, 22;121:4,17 66 (4) 119:13;120:23; 121:4,17	A
\$10 (3) 156:2,6;157:4 \$400,000 (1) 102:22 \$5 (1) 155:8 \$5,000 (1) 155:7 \$64.46 (1) 167:9	2	3	7	abandoned (3) 20:7,15,19 ability (4) 5:25;11:15;56:14; 84:16 able (18) 12:20;23:24; 34:19;37:11;41:20; 52:24;55:21;56:20; 62:10;69:2;72:23; 73:13,14;90:6;91:15; 125:11;144:13; 150:17 abroad (1) 22:17 absolutely (2) 12:20;52:22 absorbed (1) 139:3 abstract (1) 16:11 acceptable (1) 141:9 accolades (1) 161:11 accord (1) 87:24 accordance (1) 143:15 according (1) 102:14 accountable (2) 71:22;154:9 accredited (1) 161:19 accurate (27) 10:2;32:17;37:20; 51:25;52:1;77:13; 100:17,18;101:19; 104:14,17;105:13, 19,21;108:1;110:6; 113:5;117:19;118:1, 8,14;126:15;127:1; 143:16;148:14,18; 149:12 accurately (4) 66:3;118:6,12,24 accused (1) 93:3 achieve (2) 70:24;81:13 achieved (1) 157:10 achieving (1) 81:17 acronym (1) 63:24 across (1) 128:16 act (3)
0	2 (18) 10:8;59:6,7,14; 75:8;76:24;78:4; 93:12;105:7;109:25; 111:20;112:23; 117:21;118:3;128:1; 130:7,11;132:17	3 (43) 10:23;11:13; 12:19;34:16;40:8; 43:6;51:3;52:12; 53:9,24;55:10;57:10; 76:13;77:3;78:8; 79:2;82:2;84:15; 90:12;95:2,5;101:1, 2,2,3;103:17,18,19, 23;104:23;107:2; 109:2,13;112:14; 114:8;117:19; 118:10;119:8; 137:20;139:23; 140:8;145:16;149:20 30 (2) 86:24;124:16 333 (1) 5:4 35 (2) 122:14;124:16	7 (15) 100:21;101:3,4,7, 7,12,20;103:7,12; 116:25;117:1,4,5; 119:11;145:17 700 (2) 65:8;66:2 75 (2) 89:2,16 78823155 (1) 9:22	
003 (1) 10:13	2:21 (1) 149:15 2:25 (1) 149:15 2:48 (1) 165:13 2:51 (1) 165:13 2:54 (1) 167:18 200 (2) 65:8;66:2 2000 (1) 160:24 2001 (2) 8:3;19:12 2002 (1) 19:11 2003 (1) 62:2 2004 (2) 19:4;62:2 2005 (9) 9:18;60:2,15;61:7, 8,23;62:2;64:22; 129:11 2006 (47) 32:15;35:16;38:1, 14;42:7;43:3,11; 47:16;52:10;53:7,20; 54:8;56:22;70:11; 71:15;79:2;85:12; 111:22,25;112:3,6, 11;124:5;128:19; 129:13;130:3; 131:24;133:19,20, 25;134:8;135:15; 137:19;138:18; 139:11,20;140:1,7; 141:14;142:2,11; 143:14,19;149:18; 151:20;152:19,20 2008 (13) 61:9;95:12;96:1; 97:1;100:3,4,19; 111:11;116:12; 121:10;122:13,24;	4	8	
1		4 (3) 46:4;95:19;145:15 400 (1) 66:17 45 (1) 89:2	9	
1 (20) 9:1,3,4,16;10:8; 32:10;33:21,22; 43:23;95:11;99:19; 101:12;104:6; 117:19;119:8; 122:13;124:15; 126:7;144:21,23 10 (8) 109:14,14;112:15; 122:8,10;124:13; 125:13;126:8 10:05 (1) 5:2 101 (1) 117:13 1051b (4) 44:12;45:1;46:10, 17 11:11 (1) 50:24 11:17 (1) 50:24 11-page (1) 116:18 12 (3) 108:5;126:8;127:1 12:20 (1) 94:10 12:55 (1) 94:11 14 (4) 100:21;103:18,23; 124:16 140 (1) 133:23 1478 (1) 9:17 15 (4) 44:11;45:1;46:10, 16 16 (1)		5	9 (6) 104:23;122:8,10, 21;123:3;125:3 90s (1) 42:21 95 (2) 18:11;27:21 97 (3) 18:12;27:21;28:12 98 (1) 18:13	

31:19;148:16,21 <b>acting (3)</b> 105:8;109:18; 110:2 <b>active (5)</b> 13:22;68:14; 69:19;70:15;74:22 <b>actively (2)</b> 83:1,2 <b>activities (3)</b> 15:21,22;108:18 <b>activity (1)</b> 14:13 <b>actual (3)</b> 70:22;80:10; 111:12 <b>actually (14)</b> 27:25;28:8;42:4; 75:16;91:22;92:16; 102:15;103:1; 112:14;113:22; 117:18;123:15; 148:20;155:14 <b>ADD (1)</b> 84:9 <b>addition (2)</b> 132:14;134:4 <b>additional (5)</b> 15:17;88:15; 127:6;128:6,10 <b>address (26)</b> 25:12;39:11,16,18; 43:17;55:21;58:15; 16:84;11:86:1,12; 87:4;88:5,9;90:6,24; 93:22;98:14;100:14; 123:23;125:11; 139:7,19;140:15; 153:22;158:17 <b>addressed (6)</b> 55:21;107:25; 113:17;127:19; 138:16;139:8 <b>addressing (10)</b> 8:14,18;9:9,12; 31:22;86:21;92:22; 139:4;146:16;155:24 <b>adjectives (1)</b> 63:22 <b>adjourned (1)</b> 167:20 <b>adjusting (1)</b> 60:24 <b>Administration (3)</b> 54:10,10;164:8 <b>administrative (1)</b> 40:17 <b>admission (24)</b> 116:9,11,19;117:7, 13,19,22;118:1,3,8, 10,14,17,19,20; 119:9,12;120:2,17, 17,22,23;121:17;	147:11 <b>Admit (5)</b> 117:22;118:3,10, 20;119:21 <b>admits (2)</b> 117:15,16 <b>admitted (4)</b> 118:18;119:1,9,18 <b>adopt (1)</b> 108:16 <b>advance (1)</b> 70:22 <b>adversarial (1)</b> 129:23 <b>adversary (2)</b> 130:1,3 <b>adverse (4)</b> 38:17,20,24;47:12 <b>advertise (1)</b> 16:2 <b>advertising (5)</b> 30:11,14,16; 102:13;109:8 <b>aerosols (1)</b> 10:17 <b>affirmation (1)</b> 61:24 <b>afford (1)</b> 102:2 <b>AFTERNOON (1)</b> 95:1 <b>after-sun (1)</b> 51:5 <b>Again (106)</b> 8:5;9:7;12:4; 14:20;15:10;20:1; 21:3;29:7;31:14; 34:13;36:4,7,18; 37:5;40:14;42:14; 43:15;44:18,22; 45:18,24;47:5,8,10; 48:19,21;49:25;50:7; 51:12;52:2;53:1,17, 25;54:17;55:6,19,23; 58:13;60:16;62:7; 64:12,23,24;65:13, 14;66:5,8,8,19;67:5, 15,20;68:20;69:23; 71:5;74:20;79:14; 80:2;83:21;84:1,21; 85:15,19;88:17; 90:16;92:2,12;97:8; 99:8;100:13;101:21; 103:1;104:21;110:7; 113:6;116:3;121:1, 20;123:17,20; 127:14;130:13,13; 137:22;139:14,16; 140:14,22;141:8,16; 142:13;143:5; 144:10;146:7;149:5; 153:6,16,22;154:7, 14,23;155:17;156:5;	157:10;162:24;163:8 <b>against (3)</b> 21:15;103:9;114:7 <b>age (5)</b> 101:14;103:10; 104:2,8;106:25 <b>agent (5)</b> 152:25;153:3,6,9, 15 <b>ages (1)</b> 106:21 <b>ago (34)</b> 20:14;32:20;34:3; 36:4,9,19;42:15; 44:18;45:24;47:8,15; 48:19,19;49:25;50:1; 52:2;54:2;60:17; 62:18;64:12,18,19; 66:8,9;68:21;76:1,1; 77:4;78:25;79:24; 83:2,8;143:14;146:6 <b>agree (1)</b> 10:23 <b>agreed (1)</b> 167:11 <b>agreement (2)</b> 28:18;167:5 <b>agreements (2)</b> 23:12;28:15 <b>ahead (2)</b> 73:22;155:18 <b>aisles (1)</b> 48:12 <b>allergenic (1)</b> 70:16 <b>allocate (2)</b> 86:14;100:11 <b>allocated (1)</b> 92:8 <b>allow (7)</b> 21:1;37:23;45:16; 72:2;75:4;128:25; 134:23 <b>allowed (1)</b> 103:4 <b>almost (3)</b> 32:20;36:4;60:16 <b>along (2)</b> 19:16;80:22 <b>always (11)</b> 7:14,16;9:11; 25:23;27:9;41:7; 83:14;114:14;138:7; 144:19;157:3 <b>amend (3)</b> 59:8;60:1;127:23 <b>amended (1)</b> 125:1 <b>amended/supplemental (2)</b> 99:18;124:14 <b>America (1)</b> 150:15 <b>American (4)</b>	49:11;161:4,6,20 <b>amongst (1)</b> 101:24 <b>amount (3)</b> 86:18,19;167:11 <b>analysis (2)</b> 56:23;57:1 <b>analyze (1)</b> 56:9 <b>and/or (8)</b> 49:14;54:21; 112:17;113:1,21; 114:1,12;153:14 <b>Andrew (1)</b> 166:1 <b>animals (1)</b> 33:12 <b>answer's (1)</b> 8:7 <b>antagonize (1)</b> 66:25 <b>antagonized (1)</b> 67:3 <b>anticipated (1)</b> 138:25 <b>anticipating (1)</b> 143:3 <b>apologies (1)</b> 159:6 <b>apologize (1)</b> 145:15 <b>Appeal (4)</b> 128:18;133:16; 147:22;165:18 <b>appealing (1)</b> 74:17 <b>appear (1)</b> 32:17 <b>appeared (1)</b> 5:6 <b>appears (3)</b> 34:10;93:11;96:16 <b>applicable (1)</b> 125:18 <b>applicant (27)</b> 28:5;39:7;44:4,7; 46:17,18,23;95:7; 101:8,15;104:3,6; 105:8;109:18;110:2; 112:15,25;116:11, 19;117:22;118:4,11, 21;119:3;122:12; 126:9;145:20 <b>applicant's (11)</b> 44:9;95:19;99:12, 17;105:8;109:18; 110:3;117:6;122:21; 124:14;145:19 <b>application (77)</b> 9:21;10:5;19:19; 21:10;27:12,19;28:5, 11;32:14;34:1; 35:15;38:1,12,14;	39:8,25;40:6;42:7; 43:3,10;44:16,20,22; 45:11;46:9,15,16; 47:15;52:9;53:19; 57:7,13;70:11;74:6; 75:11,19,25;79:3; 91:11,17;110:13; 114:19;115:16,18; 116:2;120:5,7;121:9, 22,23,24;127:15; 130:14,14,16,19; 131:1,5,15,15;132:1, 3,9,14,25;133:20; 134:18,19,20; 135:14;137:19; 138:18,24;141:13; 143:19;149:18; 151:19 <b>applications (9)</b> 20:7,19;21:21,21, 24;43:16;130:17,20; 166:16 <b>applied (1)</b> 49:14 <b>apply (1)</b> 41:15 <b>appreciate (3)</b> 6:16;131:18;136:2 <b>approach (1)</b> 152:5 <b>approached (2)</b> 152:3,6 <b>approaches (1)</b> 107:10 <b>appropriate (8)</b> 32:1;132:21; 136:21;138:22; 139:19;140:15; 143:25;155:25 <b>appropriately (2)</b> 98:23;133:2 <b>approval (5)</b> 90:9;91:12,18; 113:16;114:4 <b>approved (5)</b> 57:14;75:19,25; 130:22;131:17 <b>Approximately (1)</b> 19:13 <b>approximation (1)</b> 18:14 <b>area (2)</b> 17:21;24:22 <b>argue (1)</b> 147:21 <b>Arizona (2)</b> 107:3;108:6 <b>around (6)</b> 27:8;48:18;68:3; 73:17,18;127:12 <b>arrived (2)</b> 82:7,8 <b>article (3)</b>
--	---	--	---	---

66:6;67:16;71:13 <b>articles (1)</b> 154:20 <b>Arts (2)</b> 160:8,9 <b>aspect (5)</b> 35:13;63:23;80:8, 11;131:7 <b>aspects (5)</b> 12:9;14:9;64:11; 74:17;82:1 <b>aspirations (1)</b> 142:11 <b>asserting (1)</b> 133:24 <b>assertive (1)</b> 12:22 <b>assess (1)</b> 137:8 <b>assistance (1)</b> 153:14 <b>associated (5)</b> 39:21;126:21; 140:17;141:15; 149:11 <b>association (3)</b> 46:24;47:22; 161:20 <b>assuming (5)</b> 20:2,23;24:1; 97:11;139:6 <b>assumption (1)</b> 42:13 <b>athlete (1)</b> 24:16 <b>athletic (1)</b> 31:5 <b>attached (1)</b> 59:7 <b>attempt (1)</b> 35:16 <b>attempted (1)</b> 31:13 <b>attempting (1)</b> 99:4 <b>attend (3)</b> 158:25;160:13; 163:17 <b>attended (2)</b> 159:10;163:12 <b>attention (1)</b> 10:7 <b>attorney (4)</b> 165:24;166:4,9,11 <b>attorneys (4)</b> 21:12;25:25; 85:22;123:20 <b>attributing (1)</b> 78:18 <b>audience (1)</b> 108:1 <b>authenticating (2)</b> 61:15,18	<b>authentication (1)</b> 61:19 <b>available (10)</b> 62:8;68:1;87:3,4; 88:8,8;125:16; 134:11;145:7,9 <b>avenues (1)</b> 91:3 <b>average (4)</b> 101:8,14,14; 103:10 <b>avoid (1)</b> 133:22 <b>award (2)</b> 161:6,8 <b>awards (3)</b> 160:25;161:11,14 <b>aware (17)</b> 20:25;35:7;36:13; 37:19;45:14;49:19; 58:7;118:21;119:18, 22;121:8,9;127:5; 128:10;162:13; 165:17,19 <b>away (2)</b> 11:3;105:17	<b>Barbara (4)</b> 159:1,7,8,25 <b>barber (1)</b> 68:5 <b>based (6)</b> 103:3,9;130:16,19; 137:24;153:25 <b>basement (6)</b> 69:13;74:2,9; 142:18,19,20 <b>basic (1)</b> 136:14 <b>basis (9)</b> 43:8,9,18;44:1; 47:20;97:12;126:1; 127:11;141:5 <b>batch (1)</b> 74:2 <b>Baxley (1)</b> 166:1 <b>Beach (2)</b> 107:7;141:3 <b>beating (1)</b> 24:2 <b>beautiful (1)</b> 151:13 <b>beauty (3)</b> 10:16;51:6;54:13 <b>became (2)</b> 19:8;143:25 <b>begin (1)</b> 79:22 <b>begins (2)</b> 44:1,4 <b>behalf (3)</b> 105:8;109:18; 110:3 <b>behind (1)</b> 70:1 <b>belief (4)</b> 26:24;46:23; 47:21;123:14 <b>believes (2)</b> 46:17;101:8 <b>bell (2)</b> 64:2;166:2 <b>bells (1)</b> 20:9 <b>below (1)</b> 43:9 <b>besides (3)</b> 11:24;30:15;61:24 <b>best (10)</b> 5:25;6:14;21:23; 32:18;46:22;79:18; 94:1,5;141:22; 152:12 <b>better (3)</b> 92:14;100:11; 131:11 <b>beverage (6)</b> 12:11,12,12,14; 13:20,21	<b>big (7)</b> 49:4;50:9;88:7; 151:10;157:1,2; 159:9 <b>billion (3)</b> 156:2,6;157:4 <b>bills (3)</b> 31:18;37:16;66:22 <b>bit (15)</b> 5:20,21;32:12; 56:3,6;63:13;86:6; 90:3,3;113:18; 125:20;153:16; 157:24;158:3,20 <b>bits (1)</b> 65:10 <b>block (1)</b> 43:8 <b>blockage (3)</b> 65:4,7,22 <b>blocked (1)</b> 65:23 <b>Board (6)</b> 128:18;133:17; 134:23;147:22; 148:17;165:18 <b>board's (1)</b> 9:8 <b>body (1)</b> 10:16 <b>bold (1)</b> 43:25 <b>bona (12)</b> 44:8;55:24;70:4; 127:15;130:15,17, 20;131:15;133:20; 134:1,7,18 <b>book (3)</b> 25:9;49:17;166:19 <b>both (5)</b> 14:18;24:13; 72:20;91:9;164:11 <b>bother (2)</b> 38:24;49:22 <b>bottle (5)</b> 83:6;136:16,17; 137:1,7 <b>bottles (2)</b> 29:14;48:16 <b>bottom (6)</b> 46:8,13;101:7; 104:6;110:1;112:23 <b>box (1)</b> 83:6 <b>branch (1)</b> 7:12 <b>branded (1)</b> 30:18 <b>brands (1)</b> 48:2 <b>bravo (3)</b> 43:14;44:12;96:22 <b>break (6)</b>	50:18;94:8;107:8; 135:11;141:3;154:2 <b>bridge (1)</b> 42:1 <b>brief (2)</b> 100:7;125:6 <b>briefly (3)</b> 22:9;31:3;48:1 <b>brilliantly (1)</b> 69:3 <b>bring (7)</b> 31:20;62:4;155:5, 6;156:2,7,14 <b>bringing (1)</b> 158:15 <b>broad (1)</b> 108:1 <b>broke (1)</b> 89:24 <b>broken (1)</b> 106:6 <b>broker (16)</b> 6:21,21,22;7:6; 8:10;11:6,6,24; 17:23,23;18:23; 39:22;89:25,25; 91:20;102:8 <b>brokerage (2)</b> 13:19;31:16 <b>brokerage's (1)</b> 7:17 <b>brokers (1)</b> 8:12 <b>broker's (2)</b> 7:14;164:19 <b>budget (9)</b> 21:13;41:24; 48:10;85:1,2;88:16; 92:7,8;156:20 <b>budgetary (1)</b> 86:13 <b>budgeting (3)</b> 32:9;50:10;152:16 <b>budgets (1)</b> 156:24 <b>bulk (1)</b> 29:16 <b>bullet (2)</b> 65:4,6 <b>Bullfrog (1)</b> 58:22 <b>bunch (3)</b> 5:23;25:25;67:23 <b>burned (1)</b> 147:13 <b>business (111)</b> 6:22;7:16,20;8:12, 17;11:17;12:8,8,10, 11;13:23;14:4,12; 15:1,12,14,21,22,24; 16:2,17,24;17:23,23; 18:23;22:19,21; 23:19;25:17,19;26:1,
<b>B</b>				
<b>BA (1)</b> 160:10 <b>Bachelor (3)</b> 160:8,8,9 <b>back (35)</b> 11:4;14:21;18:5; 25:4;31:3;32:10; 40:20;42:15,21; 50:25;60:23;62:2; 64:19;71:15;76:6; 78:3,12;80:17;84:6, 8;87:7;88:18;104:5, 23;105:6;109:13; 111:19;112:13,22; 116:8;126:17; 138:18;147:16; 152:18;153:24 <b>background (7)</b> 11:4;24:2;37:8; 134:22;135:18,25; 158:8 <b>bad (1)</b> 162:24 <b>Banana (1)</b> 159:4 <b>bang (1)</b> 135:8 <b>bank (1)</b> 151:11 <b>banks (2)</b> 152:3,5 <b>Bar (7)</b> 161:20,22,23,25; 164:25;165:3,4				

9,13;27:6;29:9; 31:15;38:25;39:22; 40:7,16;41:1,2,11; 42:18,24;57:16,18, 20,24;58:8;62:1,21, 25;66:22;67:6,8,9; 69:3,24;70:5,22; 71:17,20;72:15;73:8, 10;74:19;79:20; 81:7;84:3;93:4; 102:8,8;106:6; 108:18,19;115:18, 21;134:25;136:15; 138:25;139:12; 143:23;145:8; 146:12;150:10; 151:5,6,8,10,11,12, 13,22;152:4;153:5,7; 154:7,10,12;155:16; 156:19;157:8,11; 163:19,20,24;164:7; 166:25;167:1,1 <b>businesses (12)</b> 6:24;11:8;12:17; 13:15;14:1,2,13,25; 15:3,17;108:22; 158:3 <b>businessman (2)</b> 9:13;21:14 <b>busy (2)</b> 36:5;45:24 <b>butchering (1)</b> 80:18 <b>butter (2)</b> 71:9;153:25 <b>buy (9)</b> 29:11;32:1;77:16, 17,19;142:20;144:6, 7;155:23 <b>buyers (1)</b> 102:9 <b>buying (2)</b> 77:19,20	103:2 <b>calls (1)</b> 25:6 <b>came (2)</b> 22:20;27:14 <b>campaign (1)</b> 107:22 <b>can (64)</b> 5:24;6:9,14;8:17; 10:23;18:21;19:22; 21:15;24:6;25:12,16; 26:3,3;27:3;31:21; 32:18;34:8;37:20; 38:15;43:19,19; 52:21;53:17;55:11, 12;57:14;58:15; 72:13;73:4,20;76:5; 78:12;79:18;80:17; 84:4,11;87:7;89:13; 92:10;94:5;95:8; 100:20;102:2;106:8, 23;111:19;127:3,19; 135:4,9;145:13; 148:2,4,9;149:13; 151:13;155:9,20; 156:21;157:10; 158:14;161:3; 162:15;165:10 <b>cancer (1)</b> 154:2 <b>cans (1)</b> 29:14 <b>cap (2)</b> 136:17;137:1 <b>capable (1)</b> 79:21 <b>capacity (3)</b> 8:9;11:11;57:22 <b>capitalists (1)</b> 152:7 <b>capture (1)</b> 34:15 <b>car (1)</b> 72:21 <b>care (6)</b> 10:16,17;71:24; 117:23;119:23; 129:13 <b>Carlos (1)</b> 5:4 <b>carrier (1)</b> 72:23 <b>cars (1)</b> 30:5 <b>cart (1)</b> 32:3 <b>case (12)</b> 37:13;48:22; 50:11;61:10;74:15, 16;126:4;133:17; 149:4;151:13; 154:25;165:24 <b>CASTELLUCCI (30)</b>	5:11;9:2,5;14:21, 24;40:20,23;50:25; 51:1;59:5,11,15; 76:5,8,9;78:12,22; 87:7,10;94:7;95:3; 116:16,24;117:2; 122:6,9;149:14,16; 165:10,14 <b>CASTELLUCI (1)</b> 116:13 <b>category (1)</b> 43:6 <b>caught (1)</b> 11:15 <b>caused (1)</b> 120:10 <b>causes (2)</b> 154:1,2 <b>certain (23)</b> 8:1;18:13;28:12; 34:4;51:19;52:6; 53:15;54:1;56:10; 61:1;62:24;69:23; 83:10;84:19,25;85:3, 5,6;96:14;102:9; 125:15;128:22; 161:21 <b>certainly (5)</b> 38:19;73:17; 157:14;166:13,14 <b>Certified (3)</b> 5:5;37:13;154:11 <b>chance (1)</b> 9:24 <b>change (5)</b> 138:12;141:2,6; 147:23;148:3 <b>changed (2)</b> 111:3,25 <b>changes (1)</b> 155:21 <b>changing (6)</b> 110:21,25;138:7; 145:10;146:21; 155:15 <b>channels (5)</b> 29:8;144:8,25; 145:18;146:1 <b>characters (2)</b> 33:18;49:14 <b>check (1)</b> 167:9 <b>checking (1)</b> 45:9 <b>checklist (1)</b> 137:15 <b>chemical (15)</b> 55:18;56:2,9,10; 77:15;78:1;79:23,24; 81:25;83:1,4;87:20; 111:24;112:2;136:7 <b>chemicals (7)</b> 54:22;55:10;	57:10;58:9;67:12; 70:13;74:9 <b>chemist (3)</b> 56:6;66:20;74:21 <b>chemistry (11)</b> 56:1,3,7,17;69:13; 70:1;159:16,19,20, 22,23 <b>children (1)</b> 141:4 <b>Chile (1)</b> 22:24 <b>China (2)</b> 49:9,10 <b>choose (1)</b> 32:8 <b>circa (3)</b> 128:19;133:25; 134:8 <b>circulation (1)</b> 127:17 <b>circumstance (5)</b> 25:13;48:18;84:3; 138:16,22 <b>circumstances (5)</b> 52:4;92:5;125:2; 156:7;157:6 <b>cite (1)</b> 125:25 <b>cited (2)</b> 96:20;123:8 <b>Citibank (2)</b> 151:12,17 <b>Civil (2)</b> 96:21;163:7 <b>claim (2)</b> 33:19;34:1 <b>clarification (1)</b> 6:13 <b>clarified (1)</b> 29:20 <b>clarify (5)</b> 28:10;29:13; 34:24;119:15;129:5 <b>class (32)</b> 10:13,23;11:12; 12:19;34:16;40:8; 43:6;51:2;52:12; 53:9,12,13,24;55:10; 57:10;76:13;77:3; 78:8;79:2;82:2; 84:15;90:12;107:2; 109:2;114:8;137:20; 139:23;140:8; 149:20;159:16; 161:9;163:5 <b>classes (3)</b> 53:12;159:18,20 <b>clause (1)</b> 46:9 <b>Clay (5)</b> 16:23;17:17;18:6, 10;25:2	<b>clear (5)</b> 18:20;22:7;52:7; 80:20;113:18 <b>clearly (1)</b> 53:11 <b>clerical (2)</b> 86:22,22 <b>click (1)</b> 60:19 <b>clone (1)</b> 88:12 <b>close (1)</b> 75:24 <b>closer (3)</b> 75:18;77:2;153:12 <b>closure (1)</b> 91:16 <b>clothing (3)</b> 11:25;13:19;31:9 <b>coffee (1)</b> 50:23 <b>cold (1)</b> 84:7 <b>college (10)</b> 15:9;56:4;107:7; 141:2;158:23,24,25; 159:17,18;164:17 <b>color (2)</b> 33:19;34:2 <b>column (2)</b> 10:11,12 <b>columns (1)</b> 68:16 <b>combination (1)</b> 80:21 <b>comic (1)</b> 49:17 <b>Comics (1)</b> 49:13 <b>coming (6)</b> 5:14;6:15;81:22; 92:19;93:2,5 <b>commencing (1)</b> 5:2 <b>commenting (1)</b> 156:8 <b>commerce (21)</b> 22:15;35:18; 38:16;39:4;44:10; 46:19,25;47:18,23; 49:23;118:11; 129:16;130:24; 131:3;132:10,18; 133:18,21;134:2,8; 144:17 <b>commercialize (7)</b> 109:19;110:4,7,9, 12;126:10,20 <b>commercializing (1)</b> 111:14 <b>commission (1)</b> 35:25 <b>commissioned (1)</b>
<b>C</b>				
<b>cabinet (1)</b> 62:22 <b>calculate (1)</b> 73:23 <b>calendar (1)</b> 89:21 <b>caliber (1)</b> 154:25 <b>California (6)</b> 5:4;17:11;18:4; 19:1;49:8;161:23 <b>call (6)</b> 54:11;55:11,12; 56:6;84:10;149:13 <b>called (7)</b> 5:8;15:20;33:8; 36:20;96:12;97:2;				

57:8 <b>committed (1)</b> 91:11 <b>common (2)</b> 13:10;158:9 <b>communicate (1)</b> 103:14 <b>communication (1)</b> 100:7 <b>companies (2)</b> 19:5;151:11 <b>company (20)</b> 7:11;16:17,19,20, 23;23:4;26:25; 36:20;41:16,18,20; 42:9,21;44:9;63:10; 79:1,7,7;143:20; 154:23 <b>comparing (1)</b> 154:20 <b>comparison (1)</b> 16:10 <b>complete (1)</b> 163:21 <b>completed (2)</b> 81:9;164:12 <b>complicated (1)</b> 147:20 <b>complication (2)</b> 138:2;156:25 <b>components (2)</b> 74:17,22 <b>composition (4)</b> 77:16;78:1;79:25; 81:25 <b>compound (1)</b> 83:5 <b>compounds (4)</b> 56:10;67:14;81:2; 111:25 <b>computer (4)</b> 62:14,16;63:2,4 <b>computers (3)</b> 62:25;63:1,4 <b>conceived (5)</b> 53:4;55:3;63:19; 78:7;79:10 <b>conceiving (4)</b> 14:6,7;52:16;70:7 <b>concept (1)</b> 140:20 <b>concerning (4)</b> 9:21;105:3,10; 126:9 <b>conduct (9)</b> 13:2;35:25;57:18, 25;73:10;151:5,6,8, 22 <b>conducted (6)</b> 57:8;105:2,9; 139:21;140:2;151:9 <b>conducting (1)</b> 57:24	<b>confidence (5)</b> 52:24;54:4;73:13, 14;166:24 <b>confident (8)</b> 27:1;58:16;70:3; 73:15,20;90:17; 150:7;153:10 <b>confidently (1)</b> 157:9 <b>confine (1)</b> 107:20 <b>conflict (2)</b> 20:17;47:12 <b>conforming (1)</b> 123:22 <b>confuse (1)</b> 133:13 <b>confused (1)</b> 133:4 <b>confusing (1)</b> 146:9 <b>connection (6)</b> 34:16;51:10,24; 118:5;119:23;138:25 <b>consider (9)</b> 14:5;114:16; 125:10;126:17; 128:7,11;131:2; 133:5;141:25 <b>consideration (1)</b> 115:4 <b>considered (6)</b> 42:14;84:24; 114:13;115:1; 139:17;144:19 <b>considering (9)</b> 16:10;40:11; 41:22;42:16;51:20; 74:18;121:3;122:4; 133:8 <b>consists (1)</b> 33:18 <b>constituent (4)</b> 54:22;57:10; 67:13;111:24 <b>Constitutional (1)</b> 161:4 <b>constraint (1)</b> 98:15 <b>consult (2)</b> 152:18;153:6 <b>consulted (3)</b> 152:20,24;153:2 <b>consumer (3)</b> 101:8,15,24 <b>consumers (6)</b> 104:1,7;106:1,2; 141:10;149:25 <b>contact (6)</b> 24:24;38:7;52:17, 18;53:4;153:9 <b>contacted (2)</b> 30:17;151:21	<b>contacts (2)</b> 138:25;139:12 <b>contained (1)</b> 61:21 <b>containers (1)</b> 29:18 <b>contemplating (1)</b> 138:5 <b>contemporaneous (3)</b> 130:2,2,4 <b>contention (1)</b> 133:25 <b>contingent (4)</b> 84:15,17,23,24 <b>continue (1)</b> 130:9 <b>continued (1)</b> 163:24 <b>continuing (1)</b> 77:24 <b>contraband (1)</b> 58:3 <b>contractor (4)</b> 7:15;56:21;67:8; 75:2 <b>control (4)</b> 19:24;22:1;127:7; 128:11 <b>controlled (2)</b> 69:20,21 <b>conversations (2)</b> 166:4,22 <b>convey (2)</b> 103:8,11 <b>conviction (1)</b> 55:25 <b>convincing (1)</b> 150:17 <b>coordinated (1)</b> 144:3 <b>copy (2)</b> 62:21;122:11 <b>corner (1)</b> 9:17 <b>corners (1)</b> 61:21 <b>corporation (7)</b> 17:1,1;18:22;19:1, 8;46:24;47:22 <b>corporations (4)</b> 17:14;19:6;30:17; 157:2 <b>correctly (12)</b> 45:22;79:13; 83:15;98:15;101:17; 109:22;112:20; 113:3,4;126:12; 131:16;145:23 <b>correspondence (1)</b> 115:23 <b>corresponding (1)</b> 63:21 <b>corroborate (4)</b>	61:22;62:5,9,11 <b>corroboration (1)</b> 62:14 <b>cosmetic (2)</b> 10:16;48:22 <b>cost (13)</b> 72:12;73:10; 108:12;109:6,7; 141:20;144:12; 149:22;150:13,24; 155:7,8;156:1 <b>costs (4)</b> 137:20;140:17; 141:14;149:10 <b>counsel (5)</b> 21:20;35:22; 152:21;153:14,20 <b>counseling (1)</b> 97:8 <b>counties (1)</b> 18:9 <b>country (2)</b> 22:17,22 <b>County (3)</b> 17:15,16,19 <b>couple (8)</b> 40:25;86:25; 91:19;100:3;146:6; 147:8,12;165:11 <b>course (30)</b> 12:5;13:23;34:20; 57:13;60:18,19; 71:22,25;72:22;80:8; 83:12;90:7;92:8; 101:25;107:4;138:6, 12,21;142:24;145:8; 153:17;162:3,22; 163:21,25;164:2,9, 16,18;166:21 <b>courses (1)</b> 165:6 <b>court (2)</b> 43:13;116:13 <b>cover (1)</b> 34:15 <b>covered (1)</b> 135:5 <b>cracks (1)</b> 149:1 <b>CRAIG (4)</b> 5:7;39:9;167:19, 23 <b>crashes (1)</b> 62:16 <b>crazy (1)</b> 22:6 <b>creams (4)</b> 10:16,16;51:6,6 <b>create (4)</b> 73:6;107:24; 136:6;157:4 <b>created (12)</b> 59:18,19,20;60:2,	4,7,9,15;61:1,8; 64:13,22 <b>creating (5)</b> 60:18;64:15;83:4; 89:17;158:11 <b>creation (2)</b> 61:16;62:11 <b>credible (1)</b> 74:24 <b>credit (3)</b> 151:24;152:14,15 <b>credits (1)</b> 164:5 <b>cross (1)</b> 41:25 <b>cross-referenced (2)</b> 14:6;62:3 <b>Cruz (2)</b> 159:5,6 <b>cup (1)</b> 50:23 <b>curious (3)</b> 67:24;72:18; 166:20 <b>current (10)</b> 8:9;11:11;39:11, 12,14,16,17;71:1; 72:4,4 <b>currently (6)</b> 6:17;7:1;15:4; 19:19;31:8;117:23 <b>curriculum (2)</b> 162:14;164:1 <b>customers (6)</b> 29:22,24;31:4; 71:19;150:12;154:2
<b>D</b>				
<b>daily (3)</b> 55:16;94:4;127:10 <b>data (2)</b> 10:1;32:12 <b>date (13)</b> 27:11,17,19;32:14; 56:19;58:14;61:16; 62:11;95:13;139:11, 21;143:18;164:1 <b>dated (8)</b> 61:13,14;62:15; 96:1;100:2;122:13, 24;124:19 <b>dates (6)</b> 26:15,16;27:15; 64:24,25;121:12 <b>dawned (1)</b> 48:23 <b>day (13)</b> 18:18;22:6,6; 32:21;72:4;86:5,24; 128:15;137:13; 149:5;156:3;158:10; 162:11				

<b>Daytona (2)</b> 107:7;141:3	<b>denied (5)</b> 20:16;114:16; 117:12;120:1;121:16	13;68:16;84:8; 107:10;120:14,16; 152:2;154:22,22; 155:23	<b>doctor's (1)</b> 68:6	82:14
<b>dba (1)</b> 19:11	<b>deny (2)</b> 120:10,22	<b>difficult (4)</b> 81:10;96:7;97:4; 125:4	<b>doctrine (3)</b> 97:16;123:15; 124:8	<b>drawn (1)</b> 108:5
<b>DC (2)</b> 49:13;128:16	<b>dependent (1)</b> 92:1	<b>digging (1)</b> 8:18	<b>document (61)</b> 9:15,16,20;10:8; 11:3;45:3;59:6,7,16, 17,18,19;60:1,11,13, 18;61:2,6,13,21; 62:21;63:8,14;64:7; 75:6,7;78:4;95:4,5, 15,16,23;99:17,24; 100:2;111:21,21; 115:24;116:18,21; 117:5,9;122:16,17, 18;123:1;124:14,15, 18,21;125:15;126:8, 25;127:8,25;129:18; 130:6,11;132:16; 135:21;147:12	<b>drive (1)</b> 30:5
<b>deal (2)</b> 50:9;143:20	<b>depending (1)</b> 106:9	<b>diligent (2)</b> 45:20,21	<b>documentation (6)</b> 62:4;130:2,4; 137:14;150:22,24	<b>drug (4)</b> 48:15,21;54:9,10
<b>debated (1)</b> 72:7	<b>depends (3)</b> 25:11;50:7,14	<b>direct (2)</b> 89:23;93:16	<b>documenting (2)</b> 115:20;116:5	<b>duly (1)</b> 5:9
<b>December (7)</b> 60:2,14;61:8,8,23; 64:22;129:11	<b>deposed (1)</b> 5:16	<b>directed (6)</b> 15:13,18;76:12; 102:23;131:19;136:4	<b>documents (24)</b> 59:22;87:15; 115:22;116:3; 122:12,23;123:4,5,8, 10;125:16,18,21; 126:1,9,21;127:6; 128:6,10;129:8; 133:23;134:4,4; 150:19	<b>during (5)</b> 125:2;131:25; 162:11;164:24; 166:21
<b>decide (3)</b> 52:18;136:1;138:9	<b>Deposition (5)</b> 5:2;75:18;80:4; 93:10;167:19	<b>directly (3)</b> 24:19;80:6;93:22	<b>dog (5)</b> 33:8,13;51:8,10,13	<b>E</b>
<b>decided (6)</b> 41:15;52:5;68:18, 20;83:24;125:9	<b>describe (6)</b> 24:6;28:24;101:8; 104:1;112:18;145:18	<b>disconnect (1)</b> 76:10	<b>dogs (1)</b> 33:10	<b>earlier (5)</b> 64:22;73:25;83:8; 113:18;157:13
<b>decision (5)</b> 40:15;41:10; 42:17;84:1,2	<b>description (6)</b> 10:10,11,12;43:9; 63:21;65:11	<b>discovery (4)</b> 135:7;147:10,10, 23	<b>dollar (1)</b> 102:24	<b>earn (1)</b> 12:4
<b>decisions (2)</b> 67:7;70:4	<b>deserving (1)</b> 91:17	<b>discriminate (7)</b> 101:23,25;102:15, 16;103:9,16;104:22	<b>domain (1)</b> 39:21	<b>easily (7)</b> 27:22;89:14; 136:22,23;137:8; 144:3;146:9
<b>declaration (9)</b> 46:5,7;47:21; 128:20;129:14,16; 132:4,9,15	<b>design (4)</b> 35:6,11,13;53:4	<b>discrimination (1)</b> 103:1	<b>done (19)</b> 6:3;12:7;15:7; 16:3;24:1;44:21; 58:22,22;75:1;81:18, 18;82:16;83:18; 85:11;89:9;91:6; 140:1;151:20;164:17	<b>East (1)</b> 17:20
<b>declares (1)</b> 44:7	<b>detailed (4)</b> 24:8;65:2;108:8; 130:15	<b>discriminatory (2)</b> 30:9;103:5	<b>doubt (1)</b> 115:5	<b>easy (9)</b> 40:17;41:2,4,7,7; 86:9;150:9;162:25; 163:10
<b>declined (2)</b> 96:3;123:3	<b>detailing (1)</b> 100:8	<b>discuss (3)</b> 132:24;133:3; 156:9	<b>down (19)</b> 13:11;33:15;46:4; 48:12;65:4;66:10; 74:1;85:12;101:7; 106:7;109:25;110:8; 112:23;118:17; 137:11,12;142:20; 167:7,7	<b>economic (1)</b> 138:8
<b>declining (3)</b> 34:14;96:20;123:7	<b>determine (9)</b> 35:16;38:16;39:3; 47:17;72:13,24;73:4; 133:15;138:11	<b>discussed (1)</b> 134:10	<b>drawing (1)</b>	<b>economical (1)</b> 21:11
<b>decouple (2)</b> 76:18;77:12	<b>determining (1)</b> 137:24	<b>discussing (2)</b> 37:7;134:5		<b>educated (1)</b> 26:7
<b>define (2)</b> 43:19;151:24	<b>develop (4)</b> 12:17;13:3;28:22; 85:13	<b>discussions (2)</b> 165:23;166:3		<b>education (10)</b> 12:3;13:7;94:3; 104:2,8;157:25; 158:5,7,19;166:12
<b>defined (3)</b> 8:11;130:21; 141:17	<b>developed (5)</b> 13:1;22:14,15; 23:21;24:4	<b>disposable (2)</b> 106:1,2		<b>effect (2)</b> 71:19;142:25
<b>definitely (1)</b> 163:2	<b>developing (5)</b> 75:13;76:12;79:8; 107:22,23	<b>disregarded (1)</b> 91:14		<b>effective (5)</b> 108:10,12;109:6,7; 144:11
<b>definition (3)</b> 20:22;106:20; 110:8	<b>development (4)</b> 76:19;106:9; 131:8;144:16	<b>distinction (3)</b> 35:9;53:8,11		<b>effectively (1)</b> 141:22
<b>definitional (1)</b> 8:25	<b>devoted (2)</b> 26:25;89:17	<b>distinctions (1)</b> 81:5		<b>efficient (7)</b> 9:7;73:15;75:1; 96:9;97:9;108:12; 144:11
<b>definitions (3)</b> 81:5;123:18;133:8	<b>diary (1)</b> 36:11	<b>distinctive (1)</b> 120:14		<b>efficiently (1)</b> 135:1
<b>degree (7)</b> 159:12;160:19; 163:22;165:19; 166:5,25;167:1	<b>difference (1)</b> 120:20	<b>distribute (1)</b> 31:8		<b>effort (13)</b> 91:12,14;96:6; 109:4,19;110:3,14, 15;126:10;131:6; 138:14;142:7;143:16
<b>delineate (1)</b> 131:23	<b>differences (1)</b> 162:13	<b>distributed (1)</b> 145:20		<b>efforts (16)</b> 25:8;26:21;38:7; 47:11;69:23;86:20; 87:5,19,23;88:2;
<b>delivering (1)</b> 82:9	<b>different (17)</b> 7:3;14:9;16:14; 40:25;49:2;53:12,12,	<b>distributors (3)</b> 29:10;145:1;146:2		
<b>demographic (6)</b> 106:14,18,19,20, 22;107:21		<b>divide (1)</b> 31:21		
<b>demographics (5)</b> 105:17,23;106:3,5, 7				



89:8,13;91:22;93:24; 105:18;108:22 <b>eight (4)</b> 7:9,11;8:4;160:4 <b>either (15)</b> 13:14;20:12; 21:25;25:8,24;31:22; 37:23;45:25;58:10; 63:22;66:25;70:6; 146:9;154:11;167:2 <b>elaborate (1)</b> 111:1 <b>elected (2)</b> 44:16;47:4 <b>electromagnetic (1)</b> 66:16 <b>electronic (1)</b> 36:1 <b>element (3)</b> 33:15;34:11;35:11 <b>elements (1)</b> 35:6 <b>else (12)</b> 11:19;12:2;20:5; 47:12;49:1;70:2,19; 80:24;84:6;88:5,13; 110:10 <b>e-mail (2)</b> 39:16,17 <b>embarked (1)</b> 16:16 <b>emphasis (1)</b> 159:14 <b>emphasizing (1)</b> 80:9 <b>employed (1)</b> 6:17 <b>employee (2)</b> 13:21;15:1 <b>employment (3)</b> 14:16,17;15:22 <b>end (4)</b> 46:8;110:15; 128:15;130:10 <b>energy (1)</b> 45:25 <b>engage (2)</b> 21:20;48:8 <b>engaged (7)</b> 23:13;83:1,2; 112:2,5,9;157:19 <b>engages (1)</b> 14:14 <b>engaging (1)</b> 113:16 <b>Engine (2)</b> 29:2;30:2 <b>engineer (3)</b> 66:20;83:2;112:2 <b>Engineered (3)</b> 63:15;64:7;65:5 <b>engineering (1)</b> 56:2	<b>engines (1)</b> 30:3 <b>enough (5)</b> 8:7;13:8;21:9; 54:7;79:21 <b>ensure (1)</b> 58:23 <b>entail (1)</b> 61:18 <b>enter (1)</b> 21:16 <b>entered (2)</b> 32:13;40:1 <b>enterprise (4)</b> 16:24;25:3;57:25; 58:24 <b>enterprises (3)</b> 6:23;8:19,23 <b>entertain (2)</b> 98:16;102:18 <b>entitled (7)</b> 46:18;85:5;95:5; 99:17;116:18;117:6; 124:14 <b>entity (8)</b> 19:23;21:25; 39:25;41:11;47:17; 143:24;144:2;157:20 <b>entity's (1)</b> 38:17 <b>Entrepreneur (17)</b> 11:7,11;12:21; 31:14;37:8,9,14,14, 17;66:21;81:12; 92:13,21;93:2;94:1; 134:23;137:23 <b>entrepreneurial (4)</b> 89:8;93:24;94:3; 158:2 <b>envision (1)</b> 112:10 <b>envisioned (1)</b> 74:14 <b>envisioning (2)</b> 142:17;143:5 <b>equal (1)</b> 131:7 <b>equate (1)</b> 75:21 <b>equity (1)</b> 152:9 <b>error (1)</b> 67:2 <b>errors (1)</b> 97:11 <b>especially (1)</b> 138:8 <b>essential (1)</b> 138:15 <b>essentially (3)</b> 104:21;111:6; 121:21 <b>establish (2)</b>	22:20;63:18 <b>established (2)</b> 47:14;151:10 <b>estate (16)</b> 6:21;7:6;8:10,11; 11:5,24;13:18;17:23; 18:23;31:15,15; 39:22;89:25;102:8, 16;164:18 <b>estates (1)</b> 102:24 <b>estimated (1)</b> 149:10 <b>ethnicity (1)</b> 106:21 <b>Even (19)</b> 15:25;18:19;27:5; 36:8;49:11;53:2; 69:24,25;72:7;74:5; 75:2;85:9,9;105:24; 106:13;114:22; 132:23;139:17; 156:14 <b>event (2)</b> 28:7;129:7 <b>events (7)</b> 26:10;28:1,4; 51:19;71:2;81:8; 84:21 <b>eventual (1)</b> 53:5 <b>eventually (2)</b> 56:14;72:23 <b>everyone (3)</b> 91:8;107:16;151:9 <b>everyone's (1)</b> 107:17 <b>everywhere (1)</b> 158:11 <b>evidence (9)</b> 61:20;128:18; 130:12,24;132:10, 17;133:15;162:23; 163:6 <b>evidencing (1)</b> 131:8 <b>evolution (1)</b> 144:16 <b>evolve (1)</b> 40:14 <b>evolved (4)</b> 61:7;75:6;82:24; 111:22 <b>evolves (1)</b> 145:8 <b>evolving (1)</b> 42:19 <b>exact (9)</b> 26:16;34:4;55:7; 60:25;65:20;68:21, 24;99:2;106:20 <b>exactamundo (1)</b> 8:6	<b>exactly (40)</b> 6:3;7:2;15:11; 26:15;42:15,17; 43:20;44:23;47:6,9; 48:17;51:20;54:2; 58:25;62:7;64:13; 65:17;69:10;74:12; 75:4;78:18,20;79:15, 19;88:1,23;91:10; 92:3;98:2;104:20; 106:22;121:11; 123:17;128:24; 131:19;134:13; 136:3,3;145:14; 158:18 <b>exam (1)</b> 164:25 <b>EXAMINATION (2)</b> 5:11;45:17 <b>examined (1)</b> 5:9 <b>example (14)</b> 25:13;31:10; 45:16;48:5;49:1; 53:10;69:17;72:11; 103:9;107:1;108:18; 136:9;142:12;153:25 <b>excludable (3)</b> 96:13;97:7;98:23 <b>exclude (1)</b> 105:23 <b>exclusive (1)</b> 34:21 <b>exclusively (3)</b> 108:24,25;109:3 <b>excuse (2)</b> 10:15;144:24 <b>exhaustive (1)</b> 11:21 <b>Exhibit (60)</b> 9:1,3,4,16;10:8; 32:10;43:23;59:6,7, 11,14;75:8;76:24; 78:4;93:12;95:5,19; 99:16;101:1,2,3,12; 103:17,18,19,20,22, 23;104:5,23;105:6; 109:13,25;111:20; 112:14,22;116:14, 15,25;117:1,4,5,21; 118:17;119:12; 122:11,21;123:3; 124:13;125:3,13; 126:8;128:1;130:7, 11;132:17;144:22, 23;145:15,16 <b>Exhibits (3)</b> 95:2;122:8,10 <b>exist (2)</b> 129:8,9 <b>existed (1)</b> 62:2 <b>existence (1)</b>	61:22 <b>expansive (1)</b> 126:19 <b>expect (1)</b> 132:15 <b>expecting (3)</b> 82:11;130:16,18 <b>expend (1)</b> 138:13 <b>expenditure (1)</b> 92:15 <b>expenses (3)</b> 31:19;73:13; 137:23 <b>experience (20)</b> 14:1;15:23;43:4; 52:10,14;53:21,22; 82:20;109:5;134:24; 135:20;137:22; 153:5,7;154:15; 156:19;157:11; 158:1;162:25;163:1 <b>experienced (2)</b> 166:10,14 <b>experiences (2)</b> 11:10;12:16 <b>expertise (1)</b> 166:15 <b>explain (11)</b> 11:7;79:12,17; 80:16,20;81:7,11; 88:25;101:22; 110:16;128:25 <b>explained (2)</b> 11:5;134:9 <b>explaining (3)</b> 11:2;106:4;108:14 <b>explanation (4)</b> 80:3;93:17,19; 124:2 <b>exploit (3)</b> 109:19;110:3; 126:10 <b>exploiting (1)</b> 110:8 <b>explore (3)</b> 98:19;128:5;145:7 <b>expressive (1)</b> 89:23 <b>extent (2)</b> 67:6;69:6 <b>extra (3)</b> 86:25;88:12,12 <b>extremely (1)</b> 36:5 <b>eyes (1)</b> 44:14
				<b>F</b>
				<b>fact (11)</b> 41:10,25;42:19; 60:24;70:18,21;72:3,

7;75:10;78:7;166:18 <b>factor (2)</b> 64:2;107:19 <b>fair (8)</b> 8:21;11:22;13:5; 42:10,11;54:7;72:10; 106:24 <b>fairly (5)</b> 52:16;86:14; 127:22;137:11;146:7 <b>faith (5)</b> 26:6;72:5,8;96:6; 148:16 <b>familiar (23)</b> 5:18,19;21:8,9; 38:11;47:10;54:16; 56:5;58:13;59:16; 64:3;72:21;82:24; 95:10,15;96:8; 116:20;122:25; 129:3;148:19; 154:17;162:16,18 <b>family (4)</b> 12:8,10;13:23,24 <b>far (13)</b> 12:4;18:14;20:20; 21:19;41:23;49:10; 52:16;62:23;84:3; 127:11;143:11; 146:10;166:7 <b>fashion (1)</b> 139:6 <b>FDA (3)</b> 54:11,12;58:10 <b>feasible (2)</b> 156:14,16 <b>February (48)</b> 32:15;35:16;38:1, 14;42:7;43:3,11; 47:16;52:10;53:7,20; 54:8;56:22;60:13; 71:15;79:2;85:11,12; 100:17;104:18; 111:22,25;112:3,6, 11;128:19;129:13; 130:3;131:24; 133:19,25;134:8; 135:15;137:19; 138:18;139:11,20; 140:6;141:14;142:2, 10;143:14,19; 149:18;151:20; 152:18,20;167:18 <b>federal (7)</b> 20:21,22;21:8; 96:21;140:7;162:22; 163:5 <b>feel (26)</b> 12:21;35:10; 58:16;70:2;73:20; 74:25;75:23;77:23; 79:21;83:10;84:22, 25;86:14;90:17;	131:4;133:2;141:16; 144:10;148:15; 150:14,25;151:1; 153:10;156:21,21; 166:23 <b>feeling (4)</b> 52:3;73:15; 105:17;106:12 <b>felt (4)</b> 80:9;124:2;125:5; 150:6 <b>few (2)</b> 119:15;165:15 <b>fide (12)</b> 44:8;55:24;70:4; 127:15;130:15,18, 20;131:15;133:20; 134:1,7,18 <b>field (3)</b> 10:10,11;33:17 <b>fields (1)</b> 10:2 <b>fighting (2)</b> 93:10;156:3 <b>figure (1)</b> 67:1 <b>file (6)</b> 21:20;44:16; 45:11;47:4;62:21; 90:8 <b>filed (40)</b> 27:19;28:10; 33:25;37:25;38:10, 13;40:6;42:6;43:2, 10;44:20;46:10,16; 47:15;52:9;53:19; 57:6;70:10;74:6; 75:11;79:3;115:15, 17;116:9,10;120:5,6; 121:12;131:25; 132:4;133:20; 135:10,14;137:18; 138:17,23;141:13; 143:18;149:17; 151:19 <b>files (1)</b> 28:5 <b>filing (13)</b> 27:11;32:14; 35:15;43:8,9,16,17; 44:1,4;88:18;139:11, 20;166:16 <b>filings (1)</b> 89:3 <b>final (3)</b> 67:7;130:24; 153:12 <b>finalization (1)</b> 139:9 <b>finalize (22)</b> 16:7;27:10;42:2; 74:21;79:21;83:12; 84:25;86:19;87:5,11;	88:2,6,10,11;90:9, 16;92:10;127:2,3,19; 131:3;136:22 <b>finalized (3)</b> 130:23;138:11; 154:13 <b>finalizing (5)</b> 42:4;75:18;77:22, 24;143:11 <b>finance (1)</b> 151:18 <b>finances (4)</b> 32:7;37:23; 152:14,16 <b>financial (4)</b> 53:2;68:12;71:18; 151:25 <b>financing (5)</b> 151:21,23;152:4,7, 11 <b>find (4)</b> 25:5,8;45:11; 66:21 <b>finding (1)</b> 49:11 <b>fine (1)</b> 67:9 <b>Finish (4)</b> 87:17;88:14; 136:23;163:25 <b>finished (6)</b> 78:23;110:19; 124:10;136:23; 141:11;164:1 <b>fire (3)</b> 50:9;84:7;86:2 <b>firm (5)</b> 46:24;47:22;48:8; 112:6,9 <b>first (35)</b> 7:13;18:10;19:11; 25:3;41:1,42:24; 64:6;78:7;87:8,12; 88:11;95:6,20;99:12; 104:13,16;116:10, 18;117:7,12,18,21; 120:6,24;121:6,18; 122:11,22;123:4; 127:19;135:11; 145:16;147:3; 160:15,16 <b>fit (2)</b> 79:16;103:4 <b>fits (2)</b> 13:17;88:23 <b>five (10)</b> 29:17;50:11,13,14, 18;64:12,18,19; 162:8,9 <b>five-minute (2)</b> 50:2,8 <b>flip (3)</b> 112:13,22;118:16	<b>Florida (1)</b> 141:4 <b>fly (1)</b> 128:16 <b>focus (4)</b> 46:1;76:19;77:1,1 <b>focused (3)</b> 142:14,14;165:2 <b>focusing (2)</b> 31:20;91:22 <b>follow (8)</b> 31:21;72:9;91:10, 12;113:12;114:10; 115:11,14 <b>followed (2)</b> 25:21;121:22 <b>following (6)</b> 46:11;84:21; 113:25;114:19,21; 115:7 <b>font (2)</b> 33:19;34:1 <b>Food (2)</b> 54:9,10 <b>forever (1)</b> 49:10 <b>forget (2)</b> 23:9;55:17 <b>forgot (1)</b> 20:13 <b>form (7)</b> 9:17;10:17;16:17; 41:1,2;60:14,25 <b>formally (1)</b> 41:16 <b>format (3)</b> 97:9;99:5;123:22 <b>formats (1)</b> 96:8 <b>formatted (1)</b> 147:4 <b>formed (5)</b> 16:25;26:12;40:6; 79:1;143:19 <b>formula (1)</b> 64:10 <b>formulated (1)</b> 85:14 <b>formulating (1)</b> 27:7 <b>formulation (7)</b> 56:11;64:6;79:11; 85:13;87:20;153:13; 154:1 <b>forte (1)</b> 165:1 <b>forth (4)</b> 5:10;51:6;64:6; 88:19 <b>forward (29)</b> 10:22;25:16;27:9; 37:10,10;39:6;41:13; 50:21;52:19;54:11;	55:25;83:4,16;84:20; 86:23;87:4;88:16; 90:8;92:11;94:1; 113:20;131:14; 136:1;137:16; 148:10,12;152:12; 156:12;157:9 <b>found (1)</b> 50:5 <b>founded (1)</b> 41:16 <b>four (10)</b> 48:19;60:16; 61:21;64:12,18,19; 117:6,15,16;159:24 <b>fourth (1)</b> 43:22 <b>frame (3)</b> 129:12;130:23; 131:2 <b>Francisco (8)</b> 17:18;160:16; 161:17;162:14,21; 163:15,18;164:3 <b>free (6)</b> 38:3;39:2;45:15; 50:3;88:15;90:3 <b>frequently (1)</b> 71:4 <b>friendly (1)</b> 51:13 <b>front (3)</b> 8:2;18:21;32:11 <b>fulfilling (1)</b> 72:1 <b>full (6)</b> 21:5;44:3;139:18; 153:10;161:16; 162:11 <b>full-time (1)</b> 67:20 <b>fully (2)</b> 43:11;70:21 <b>fun (2)</b> 131:10;159:2 <b>functions (1)</b> 8:12 <b>fund (2)</b> 152:1,10 <b>further (1)</b> 46:4 <b>future (16)</b> 52:25;54:6;55:22; 56:15,19;58:14; 115:3;128:23,24; 129:7;130:22;133:9; 138:15;146:15; 153:22,23 <b>futures (1)</b> 155:23
G				

<b>gallon (2)</b> 29:17,20	108:21;109:3; 141:19;142:14;	<b>handle (1)</b> 143:20	25;121:6,19;126:11; 129:15;132:1;134:1; 157:16,17	127:19;156:23
<b>garages (1)</b> 30:7	143:15;144:11; 150:18	<b>handling (5)</b> 54:21;55:10,18; 57:9;165:24	<b>hey (1)</b> 48:23	<b>hydraulic (1)</b> 30:4
<b>garnered (1)</b> 55:5	<b>grassroots-type (1)</b> 108:9	<b>happen (2)</b> 71:17;74:9	<b>high (3)</b> 152:10;158:21,22	<b>hypothetical (2)</b> 133:6;153:22
<b>gather (1)</b> 49:17	<b>great (4)</b> 44:14;65:1,1;90:1	<b>happened (4)</b> 62:17;68:22; 133:9,9	<b>highest (2)</b> 72:6;161:8	<b>hypotheticals (5)</b> 132:20,22;133:3, 14;156:5
<b>Gaicho (1)</b> 159:9	<b>greater (1)</b> 102:11	<b>happening (2)</b> 13:24;93:23	<b>hire (6)</b> 21:12;35:22; 56:14;57:1;67:8; 70:7	<b>I</b>
<b>gauging (1)</b> 41:24	<b>greatest (1)</b> 91:20	<b>happy (1)</b> 8:13	<b>hired (3)</b> 56:22;57:5;140:5	<b>idea (6)</b> 14:7;30:25;63:17; 82:1;93:12;140:17
<b>geared (1)</b> 40:7	<b>grounds (1)</b> 97:12	<b>hard (6)</b> 9:11;22:7;62:21; 79:15;140:4;150:5	<b>hiring (3)</b> 56:20;74:20;75:1	<b>ideas (1)</b> 27:7
<b>gender (2)</b> 104:2,8	<b>group (2)</b> 104:2,8	<b>he/she (1)</b> 46:17	<b>his/her (1)</b> 46:22	<b>identical (1)</b> 60:14
<b>general (2)</b> 135:18;159:22	<b>groups (1)</b> 107:12	<b>head (1)</b> 158:14	<b>history (1)</b> 14:15	<b>identified (1)</b> 104:2
<b>geographically (2)</b> 24:13;29:7	<b>guess (63)</b> 7:3,15,16;8:11,16, 18;11:16;12:4,6,7, 24;15:11;20:16; 21:10;22:18;25:1; 26:7;28:3;32:8; 33:23;34:7,17,18; 35:8;38:25;40:15; 41:3;42:13;49:11; 53:17;54:15,17;56:5; 60:20;61:24;63:21; 64:5;68:1;74:16; 75:21;82:8;85:23; 86:7,22;91:24;97:7; 98:14;99:5;105:25; 106:2,20;110:12; 115:1;123:24; 124:20;127:3; 130:21;134:12,24; 146:20,23;160:1,5	<b>heading (1)</b> 46:4	<b>hold (3)</b> 104:9;116:7; 166:24	<b>Identify (1)</b> 104:1
<b>germinate (1)</b> 6:24	<b>guessing (5)</b> 34:6;47:6;65:14, 15;68:24	<b>headline (1)</b> 154:19	<b>homeowner (1)</b> 72:22	<b>identifying (1)</b> 63:9
<b>gets (1)</b> 28:8	<b>guidelines (1)</b> 131:14	<b>headway (1)</b> 135:9	<b>honest (1)</b> 80:7	<b>illegal (5)</b> 58:3,5,6,20;102:15
<b>given (3)</b> 120:7;121:12,13	<b>guiding (1)</b> 158:1	<b>health (1)</b> 54:13	<b>honestly (6)</b> 30:10;45:22;92:4; 146:25;148:22; 162:17	<b>imagine (3)</b> 14:5;24:3;30:13
<b>gives (1)</b> 134:20	<b>guy (1)</b> 72:15	<b>hear (3)</b> 13:24;159:2,3	<b>honors (1)</b> 160:25	<b>immediately (5)</b> 11:20;31:17; 88:10;135:23;139:8
<b>giving (2)</b> 93:17;135:25	<b>guys (2)</b> 54:24,25	<b>heard (8)</b> 33:7;36:20,23,24, 25;49:13;71:12; 154:19	<b>hope (5)</b> 37:12;57:10,17,19; 135:4	<b>impediment (5)</b> 40:18;41:10; 86:22,23;88:22
<b>goal (1)</b> 110:15	<b>H</b>	<b>hearing (3)</b> 13:9;148:3;158:14	<b>hopefully (7)</b> 26:3,6;67:3;81:19; 89:13;92:9;135:9	<b>impetus (1)</b> 78:19
<b>goes (3)</b> 60:18;77:10;114:7	<b>hairst (3)</b> 81:4,6;113:11	<b>help (11)</b> 13:16;21:20; 25:25;26:9;56:23; 57:1;93:15;103:21; 112:9;148:4,5	<b>hoping (2)</b> 30:9;43:19	<b>implement (6)</b> 27:8;38:25;57:15; 70:4;74:20,21
<b>golden (1)</b> 33:10	<b>half (1)</b> 89:2	<b>helped (3)</b> 12:17;14:1;36:15	<b>horse (1)</b> 24:2	<b>implementing (1)</b> 70:21
<b>golf (1)</b> 107:4	<b>hand (4)</b> 95:18;99:15; 107:5,6	<b>helpful (1)</b> 46:2	<b>hour (3)</b> 5:2;50:17;94:8	<b>implication (1)</b> 64:4
<b>Good (23)</b> 5:12,13;6:16;8:7, 24,25;18:14;20:10; 30:25;50:18;65:25; 72:5,5,8;73:11;75:4; 93:4;94:7;96:6;97:5; 108:15;148:16;167:8	<b>handed (2)</b> 117:3;122:10	<b>helping (2)</b> 12:7;13:1	<b>hourly (1)</b> 88:20	<b>implications (1)</b> 64:5
<b>goods (9)</b> 10:12;27:2;40:8; 51:2,3,11,14,24; 52:12	<b>handing (1)</b> 95:4	<b>hereinafter (1)</b> 5:10	<b>hours (5)</b> 9:11,11;86:5,24,25	<b>important (15)</b> 72:13;79:8,25; 80:8;90:20,22;91:7, 8;101:15;105:18,24; 106:13;107:24; 113:8;165:22
<b>grad (3)</b> 160:13,14;163:13		<b>HERO (52)</b> 19:20;25:14; 32:23,24,24;33:8,16; 34:16;38:18;49:15, 20;51:4;75:11;78:5, 9;79:3;81:24;82:3, 18;84:16;90:10,20; 92:18;93:11,23; 105:3,10;108:3; 109:2,20;110:4; 112:18;113:2;114:8; 117:23;118:4,11,22; 119:4,19,23;120:6,7,	<b>house (1)</b> 102:23	<b>impossible (1)</b> 77:12
<b>grade (1)</b> 161:8			<b>houses (1)</b> 102:10	<b>inappropriate (1)</b> 154:21
<b>graduate (8)</b> 158:21,22,23,24; 160:11,18,20;162:6			<b>huge (3)</b> 36:9;88:22;157:3	<b>Inc (2)</b> 18:24,25
<b>graduated (1)</b> 159:10			<b>human (1)</b> 18:17	<b>inception (1)</b> 70:9
<b>graduating (1)</b> 162:21			<b>humanly (1)</b> 149:8	<b>inches (1)</b> 46:14
<b>graphical (1)</b> 34:11			<b>hurdle (7)</b> 56:16;58:14; 70:23;74:23,24;	<b>inclined (1)</b> 38:9
<b>grassroots (7)</b>				

<b>include (5)</b> 113:6;120:18; 126:21;145:1;146:2 <b>included (2)</b> 96:24;146:13 <b>includes (1)</b> 96:11 <b>including (1)</b> 54:14 <b>income (6)</b> 31:20;101:14; 103:4,10;106:1,2 <b>inconsistencies (1)</b> 148:8 <b>inconsistent (3)</b> 120:2;145:4;146:5 <b>incorporate (1)</b> 17:24 <b>incorporated (4)</b> 17:25;18:1,3;19:3 <b>incorrect (3)</b> 97:3;123:19; 154:25 <b>increase (1)</b> 144:13 <b>independent (13)</b> 7:15,18;8:10;9:13; 11:5,15;13:2;21:14; 56:20;60:5;67:8; 75:2;164:22 <b>independently (1)</b> 12:16 <b>indicated (5)</b> 13:1;60:1;101:13; 125:14,15 <b>indication (1)</b> 98:7 <b>individual (4)</b> 7:15;40:1;81:12; 157:7 <b>individuals (1)</b> 158:16 <b>individual's (2)</b> 50:15;92:1 <b>industries (8)</b> 7:1,4;11:23;16:23; 17:17;18:6,10;25:3 <b>industry (8)</b> 7:6;11:16;21:4; 69:25;70:2;90:1; 91:20,21 <b>information (10)</b> 10:1;32:23;39:7, 25;44:1;50:4;55:5; 63:9;67:23;96:13 <b>informative (1)</b> 96:10 <b>informed (2)</b> 98:17;121:23 <b>ingredients (6)</b> 67:10;68:15; 69:19;70:15;74:22, 22	<b>inhibition (1)</b> 70:19 <b>initial (3)</b> 24:1;71:24;125:2 <b>initially (4)</b> 22:16;24:15; 74:18;115:15 <b>initiate (1)</b> 24:24 <b>initiating (1)</b> 142:7 <b>initiative (7)</b> 25:17;26:7;42:3; 52:18;75:3;86:12; 90:25 <b>initiatives (1)</b> 82:22 <b>inquiries (1)</b> 102:19 <b>inside (5)</b> 63:3;77:16;80:10, 23;81:2 <b>insinuate (1)</b> 154:24 <b>insinuating (1)</b> 155:2 <b>instances (1)</b> 123:7 <b>institution (1)</b> 161:18 <b>institutions (2)</b> 164:3,11 <b>instrument (1)</b> 53:3 <b>insurance (9)</b> 72:12,22,23; 152:24;153:3,6,9,15, 18 <b>insured (1)</b> 154:11 <b>insurmountable (1)</b> 138:1 <b>intellectual (3)</b> 35:22;93:3;165:5 <b>intelligent (1)</b> 137:11 <b>intend (17)</b> 6:2;51:3;52:21,22; 57:20,25;76:14,22; 114:19,21;116:3; 128:7;132:8;133:16; 134:6;142:1;147:21 <b>intended (7)</b> 54:22;103:8; 144:25;145:19; 146:2,24;165:3 <b>intending (2)</b> 78:9;103:11 <b>intent (48)</b> 27:9;34:20;42:3; 44:5,19,22;45:20,21; 55:24;57:15;70:4,8; 72:9;74:14;82:5;	83:11,12,14;88:9; 90:16,17;104:18; 127:15,16;128:19; 129:15;130:5,12,15, 18,20;131:1,8,15,25; 132:10,17;133:18, 21;134:1,7,18,22; 136:21;138:24; 143:14;144:16; 146:17 <b>intention (35)</b> 9:7;31:22;33:25; 34:15;35:12;44:8,19; 52:23;55:19,23;72:5; 84:14;90:11;106:15; 109:1;111:17,17; 114:5,10,14;115:11, 13,17,21,23;123:18; 130:5,11;133:13; 139:18;142:3,4; 144:6;150:8;153:10 <b>intentions (1)</b> 97:6 <b>inter (1)</b> 129:24 <b>interact (1)</b> 56:11 <b>interested (3)</b> 66:23;101:9; 104:24 <b>interesting (1)</b> 103:6 <b>interlocutory (2)</b> 165:23;166:3 <b>intermittent (3)</b> 65:3,7,22 <b>international (6)</b> 10:13;43:6;53:9; 159:13,14;160:7 <b>Internet (7)</b> 25:9;30:13;31:25; 42:21;48:7;145:2; 146:3 <b>interpret (1)</b> 145:14 <b>interpretation (3)</b> 77:6;80:13,15 <b>interpreted (1)</b> 76:16 <b>interrogatories (13)</b> 95:6,11,20;96:1, 25;100:21,23;101:6; 105:16;123:13; 144:21;145:17; 147:11 <b>interrogatory (28)</b> 96:4,12;98:8; 99:18;101:13,20; 103:7,12,18,23; 104:24;105:1; 109:15,17;110:1,22; 111:6,7;112:15,24; 144:25;145:11,13,	17,25;146:16,21; 148:25 <b>interrupt (1)</b> 87:17 <b>interruption (1)</b> 82:10 <b>into (7)</b> 27:6;54:20;57:8, 20;70:11;84:8; 162:19 <b>introduce (1)</b> 132:15 <b>introduction (1)</b> 25:2 <b>invested (4)</b> 75:20;91:13,14; 138:14 <b>investigate (3)</b> 35:22;49:22; 135:19 <b>investigated (9)</b> 38:1;72:25; 135:15;137:20; 139:12;141:14,16, 18;151:20 <b>investment (3)</b> 75:21;92:6,7 <b>involved (6)</b> 14:4;85:21,22; 92:22;109:9;152:9 <b>involves (1)</b> 81:13 <b>iron's (1)</b> 84:7 <b>irritants (2)</b> 70:16,23 <b>issue (8)</b> 22:3;32:5,6;58:13; 92:22;113:17; 133:13;154:18 <b>issues (6)</b> 8:15;63:5,6;98:20; 155:25;156:6 <b>item (3)</b> 39:7,24;81:14 <b>items (2)</b> 31:9;125:12	5:4 <b>Journal (1)</b> 68:10 <b>judge (2)</b> 130:16,19 <b>juggle (1)</b> 84:10 <b>juggling (1)</b> 31:19 <b>June (6)</b> 96:1;97:1;100:4; 121:9;122:24;124:5 <b>Jurisprudence (2)</b> 161:5,6 <b>justification (1)</b> 50:13
<b>K</b>				
<b>keep (2)</b> 36:11;145:7 <b>Kenyon (2)</b> 5:3,3 <b>kids (1)</b> 108:4 <b>kind (16)</b> 15:25;21:15;25:4, 24;26:2,5;33:13; 37:10;42:18;55:14; 63:17;65:16;135:8; 141:17;149:1;150:23 <b>knew (3)</b> 36:17;99:1;156:1 <b>knock (1)</b> 135:4 <b>knowing (7)</b> 56:17;65:17; 70:22;73:15;140:14; 153:7,17 <b>knowledge (4)</b> 46:22;54:9,12; 119:4 <b>known (1)</b> 49:3 <b>knows (1)</b> 151:11				
<b>L</b>				
<b>label (3)</b> 97:6;136:17;137:1 <b>labeled (1)</b> 95:5 <b>Lake (2)</b> 17:21;24:22 <b>language (1)</b> 111:7 <b>larger (2)</b> 29:16,17 <b>last (9)</b> 36:8;46:1;58:1; 65:6;66:8;68:22; 81:14,16;87:14				
<b>J</b>				
<b>JD (3)</b> 160:21;162:21; 163:15 <b>Jiffy (1)</b> 30:21 <b>job (3)</b> 8:12;15:15;67:20 <b>jobs (5)</b> 12:5,6;15:7,11; 85:25 <b>Johnson (2)</b> 58:21,21 <b>Jose (1)</b>				

<b>late (2)</b> 127:22;128:3	7:23	163:9	27:12;28:11,16;31:3, 9;32:2;34:25;54:23, 25;62:1;63:11,19; 64:15,16;74:19; 78:10,20;79:10;82:3, 6,14,18,20,23;83:19, 21,25;93:13;108:18; 111:20,21;115:24; 127:25;130:6; 132:16;135:19,20	35:3,9,17;36:2,16; 38:16,18;39:3;41:15; 44:9;46:18,25;47:18, 23;49:15,19,23;51:3, 8,23;59:5;75:11; 78:5,9;79:3;81:24; 82:2,3;84:16;85:6; 90:11,20;92:18; 93:10,23;108:3,5; 109:3;114:8,24; 116:14;118:23; 119:5,19;120:24; 121:18,25;129:15; 132:1,10,18;133:18, 21;134:1,8;144:17; 157:17,21
<b>later (1)</b> 57:7	<b>licensing (5)</b> 7:19;17:7;28:14; 58:7;157:21	<b>longer (3)</b> 66:17;98:16; 148:14	<b>maintain (5)</b> 22:7;30:2;31:14; 62:20;73:14	<b>marked (17)</b> 9:4,15;59:12,14; 95:2,19;99:16; 116:15,25;117:1,3; 122:7,8,21;128:1; 130:7;132:17
<b>Law (17)</b> 5:3;160:16,17,19; 161:1,4,17,19; 162:14,15,21,24; 163:15;164:24; 165:19;166:5,18	<b>lifetime (1)</b> 62:16	<b>look (22)</b> 7:5,9;24:10;2; 34:9;59:16;65:3; 77:14;95:21;96:5; 100:23;101:11; 103:17;116:17; 117:11;119:12; 122:20;131:22,24; 136:15;137:7; 145:15;165:9	<b>major (1)</b> 50:10	<b>market (17)</b> 12:18;41:17,20; 79:1;84:15;102:22; 105:2,3,7,9;139:21; 140:2,155:5,6;156:2, 15;158:15
<b>laws (1)</b> 21:1	<b>light (1)</b> 126:19	<b>looked (7)</b> 45:6;48:16;70:11; 121:11;122:3;140:3; 162:18	<b>majority (1)</b> 117:14	<b>marketable (1)</b> 41:19
<b>lawyer (4)</b> 72:16;92:12,21; 156:3	<b>liked (1)</b> 51:12	<b>Looking (14)</b> 11:8;27:8;37:10; 46:7;48:18;61:7; 73:5;93:6,12;102:10; 105:25;140:4;149:3; 165:24	<b>makes (4)</b> 31:16;44:11;45:1; 106:5	<b>marketed (4)</b> 23:1;24:4,7;28:25
<b>lawyers (2)</b> 93:4,9	<b>likely (2)</b> 23:23;101:9	<b>looks (11)</b> 47:10;64:14; 66:11;95:10,15;96:3; 116:20;117:5,11; 122:25;123:3	<b>making (6)</b> 42:13;77:21; 90:18;91:7;92:17; 93:8	<b>marketing (24)</b> 11:12;40:8;43:4; 52:11;53:8,22,23; 63:17;90:12;102:21, 23;105:18;107:11, 22,24;108:10,21; 109:2,3;112:6; 143:16;144:12; 149:19;150:18
<b>leap (1)</b> 26:5	<b>likewise (2)</b> 41:4;53:3	<b>loose (3)</b> 55:14;80:3;89:18	<b>managed (1)</b> 88:16	<b>marketplace (7)</b> 21:16;24:5;58:19; 73:16;137:25;142:8; 154:9
<b>learn (3)</b> 54:6;97:13;123:17	<b>limit (2)</b> 34:14;109:10	<b>loosely (2)</b> 41:5;64:24	<b>management (1)</b> 11:17	<b>marks (6)</b> 21:24;22:11;35:6, 9;105:10;157:15
<b>learned (3)</b> 7:16;37:9;54:5	<b>limited (4)</b> 17:3;45:19;88:7; 97:14	<b>lot (13)</b> 21:11;38:21; 45:15;50:12;73:19; 75:19,20,20;88:19; 107:4;125:11;135:5, 6	<b>manual (1)</b> 45:17	<b>Marvel (1)</b> 49:14
<b>learning (2)</b> 100:13;121:6	<b>limiting (1)</b> 107:19	<b>lots (12)</b> 12:5;15:7;36:5; 75:14,23;77:21,23; 86:9;87:23;102:1; 131:6;155:23	<b>manufacture (10)</b> 11:12;12:18; 13:19,20;15:19;53:8, 23;79:1;84:14; 136:12	<b>mascot (1)</b> 159:7
<b>least (7)</b> 12:21;20:20;27:4; 69:3;86:15;99:4; 125:25	<b>lines (4)</b> 46:13;151:24; 152:14,15	<b>LOUISE (1)</b> 5:5	<b>manufacturers (2)</b> 83:3;136:7	<b>master (1)</b> 42:20
<b>left (1)</b> 10:10	<b>lining (1)</b> 103:2	<b>lubricant (1)</b> 30:2	<b>manufacturing (27)</b> 12:12,14;16:6,9; 40:8;43:4;52:11; 53:21;57:17,21; 112:16;113:1,9,13, 21,25;114:11; 115:12;137:20; 138:19;139:1,13,22; 140:8,18,19;149:19	<b>Master's (1)</b> 164:7
<b>left-hand (1)</b> 9:17	<b>list (13)</b> 39:24;67:10,12,13, 15;90:23;111:24; 136:19,25;137:2,4,5, 15	<b>Lube (1)</b> 30:21	<b>many (4)</b> 62:25;85:18; 87:11;123:7	<b>material (5)</b> 80:10,22;102:21, 23;136:18
<b>legal (15)</b> 36:13,14,21,22; 39:25;57:18,25; 58:24;81:5;86:22; 99:6;115:7;152:21; 153:14,20	<b>listed (3)</b> 43:5;52:12;68:15	<b>lubricants (2)</b> 29:1;30:19	<b>margin (1)</b> 144:13	<b>materialized (1)</b> 22:21
<b>legally (1)</b> 83:15	<b>literal (1)</b> 33:15	<b>lunch (1)</b> 94:10	<b>margins (1)</b> 60:24	<b>materials (5)</b> 27:23;77:19;
<b>leisure (1)</b> 25:24	<b>little (15)</b> 5:20;13:13;32:12; 37:4;45:10;63:13; 80:2;86:6;113:17; 123:2;125:20;133:4; 157:24;158:3,20	<b>M</b>	<b>MARIE (1)</b> 5:5	
<b>less (1)</b> 102:2	<b>live (2)</b> 107:3;150:15	<b>Maiden (47)</b> 16:20;18:7,12; 20:3;21:18;22:9; 23:17,18;25:21;26:8;	<b>mark (91)</b> 9:1,2;21:18,18,19; 22:14,15,16;23:2,7, 15,17,21;24:10; 25:15,22;26:8;27:1, 12;28:8,16,22;31:10; 32:23,25;33:17,18; 34:4,9,11,14,19,25;	
<b>level (5)</b> 56:12;70:3;104:2, 8;158:5	<b>lives (1)</b> 141:4			
<b>levels (1)</b> 40:25	<b>living (2)</b> 11:9;12:5			
<b>Lexis (1)</b> 36:21	<b>loan (5)</b> 16:1,4,7;53:2; 89:25			
<b>liability (1)</b> 154:3	<b>local (3)</b> 21:1;58:10;140:7			
<b>license (8)</b> 7:14,17;19:14; 23:12;28:18;70:12; 157:17;164:19	<b>location (3)</b> 32:1;143:1,2			
<b>licensed (2)</b> 28:16;37:14	<b>logo (3)</b> 32:2;34:10;63:8			
<b>licensee (1)</b> 44:9	<b>long (15)</b> 7:8,25;9:11;20:13; 36:19;50:1;62:18; 66:8,9;68:20;73:18; 124:20;141:5;162:6;			
<b>licenses (1)</b>				

135:16;136:5,25 <b>matter (21)</b> 13:9;16:14;26:6; 31:19;23;48:10; 70:20;73:12;85:1; 104:7;113:20,24,24; 115:6;141:1;143:6; 147:1;148:3;154:14; 155:24;156:11 <b>may (25)</b> 8:19;25:18;46:2; 47:24;50:11;56:16; 58:12,22,22;59:21; 60:3;64:21;66:5; 72:4,21;77:15;84:3; 86:9;88:9;95:12; 96:5,16;116:12; 122:13;148:2 <b>Maybe (81)</b> 8:24,25;14:6,7; 17:14;18:10,12; 19:11;35:10,11; 40:10;41:5,8,11,22, 23;42:14,20;45:6,7; 47:25;48:15;49:7; 52:13;53:1,4;54:4; 55:15;58:17;59:22, 23;60:9,19,20,23; 62:6,9,12,15;63:18; 64:11,11,23;65:12, 16,17,19,19;66:21; 67:7;68:25;69:4; 72:3;76:10;80:2,4,6, 9;81:5,14;82:19; 84:2,7;86:24;92:14; 98:16;110:8,16; 111:1,3;113:14,18; 123:2,13;125:10; 146:24;148:5,25; 151:11;154:24; 156:20 <b>MBA (3)</b> 163:25,25;164:9 <b>mean (60)</b> 21:11;22:15;23:3; 24:13,13,18,18;29:7, 8,13,14;36:4;40:5, 16;41:6;49:6,10; 51:20;52:2;53:1,6; 58:5;63:16;64:25; 65:9,22;73:4;77:6; 88:25;93:15,18; 102:9;103:15; 105:22;107:16; 108:7;111:10; 113:10;115:17; 120:12;126:20; 130:3;134:17; 137:10;139:10; 140:3;142:4,16,17; 146:20;147:10,24; 148:7;155:12;157:1; 158:13;163:8;165:8;	166:18,24 <b>meaning (9)</b> 14:8;16:5;26:21; 52:15;69:21;86:2; 110:12,17;142:6 <b>meant (5)</b> 45:11;76:13; 97:16,24;98:1 <b>measures (1)</b> 115:7 <b>mechanics (1)</b> 30:6 <b>meeting (1)</b> 75:17 <b>member's (1)</b> 13:23 <b>memorialize (3)</b> 87:15,19;89:4 <b>memorialized (1)</b> 87:23 <b>memorializing (1)</b> 89:13 <b>memory (19)</b> 18:16,18;20:1,10, 12,12;22:1,2,7;45:7; 55:7;65:1;66:9; 79:20;94:2;97:18; 100:6;162:24;166:6 <b>mention (2)</b> 91:21;126:5 <b>mentioned (6)</b> 15:6;67:22;73:5; 91:19;147:8,12 <b>merit (2)</b> 114:19;134:19 <b>messing (1)</b> 93:9 <b>MICHAEL (4)</b> 5:7;39:9;167:19, 23 <b>Michelle (2)</b> 167:5,11 <b>midst (2)</b> 55:15;111:16 <b>might (26)</b> 9:17;38:8,17; 56:10;58:10;61:22; 62:10;70:12;71:17; 74:8;76:23;102:21; 109:10;126:20; 127:6,7;128:6,11; 129:8;135:16; 136:12;140:19; 146:18;151:22; 153:13;154:4 <b>miles (1)</b> 167:7 <b>million (1)</b> 155:8 <b>mind (4)</b> 11:19;50:22; 106:18;145:7 <b>minimize (2)</b>	72:2;73:13 <b>minute (3)</b> 11:4;55:1;143:13 <b>minutes (6)</b> 50:12,14,14,18; 146:6;165:11 <b>miscounted (1)</b> 96:17 <b>mishear (1)</b> 79:11 <b>misheard (1)</b> 137:5 <b>misinterpreted (1)</b> 147:5 <b>misreading (1)</b> 146:9 <b>missing (3)</b> 15:10;120:3,19 <b>Mississippi (1)</b> 49:9 <b>misspellings (1)</b> 60:23 <b>misspoke (3)</b> 82:4,9;137:5 <b>misunderstood (1)</b> 75:15 <b>mix (2)</b> 69:12;74:9 <b>mixed (1)</b> 56:11 <b>moisturizer (1)</b> 10:18 <b>moment (7)</b> 9:23;31:21;79:24; 95:8;99:21;116:17; 122:15 <b>MONDAY (1)</b> 167:18 <b>monetary (1)</b> 75:21 <b>money (18)</b> 26:20;31:16; 38:22,23;76:3;90:21; 91:7,12,13;92:6,17; 93:8;102:1,2,17,17; 131:6;155:19 <b>month (1)</b> 49:7 <b>months (1)</b> 100:3 <b>more (25)</b> 13:13;15:13; 21:11;27:6;39:17; 51:20;52:13;57:19; 60:10;65:13,19; 67:18;79:8;81:20; 90:19,22;98:17; 108:5;123:2;125:10, 20;143:22;160:14; 165:15;167:15 <b>morning (2)</b> 5:12,13 <b>Morris (1)</b>	167:6 <b>mortgage (14)</b> 6:22;7:6;11:6,24; 13:18;15:24;17:22; 18:23;31:15;39:22; 53:2;91:20;102:8,16 <b>mortgages (1)</b> 102:10 <b>most (6)</b> 66:13;101:9; 108:10;109:6,6; 144:10 <b>mostly (1)</b> 24:15 <b>mother (1)</b> 141:4 <b>motion (4)</b> 59:8;60:1;127:23, 24 <b>Motor (6)</b> 29:4,14,15,25; 30:6,18 <b>mouth (2)</b> 108:9;141:19 <b>move (36)</b> 19:16;25:16;27:9; 28:20,20;32:10;39:6; 41:12;43:8;52:18; 55:25;57:14;83:16; 84:13,19;86:23;87:4; 88:16;90:8;92:11; 94:1;97:18,22;99:7; 112:8,13;122:1; 131:14;135:3;136:1; 147:2;152:12; 156:12;157:9,12,23 <b>moved (1)</b> 83:3 <b>moving (2)</b> 11:3;23:17 <b>much (18)</b> 20:23;21:4;24:3; 27:14;53:7;55:12; 72:11;75:18;82:14, 18;86:4;102:11; 117:12;141:18; 149:22,25;150:13; 162:25 <b>multi-million (1)</b> 102:24 <b>multiple (1)</b> 7:1 <b>must (6)</b> 26:17;34:6;66:10; 82:4;146:7;147:5 <b>myself (11)</b> 11:7;56:6;64:11; 73:20,22;75:3; 110:10,11;142:6; 146:8;162:12	<b>nail (1)</b> 85:12 <b>name (26)</b> 16:19,20;18:22; 19:22;20:17;21:25, 25;23:10;48:2,24; 51:13;52:4;63:10; 77:8,9;79:7;80:22; 82:6,18;84:20;90:9, 25;114:14;121:25; 162:15;165:25 <b>nanometers (5)</b> 65:8,8;66:2,2,17 <b>Nano-Suntection (2)</b> 63:15;65:5 <b>nature (12)</b> 8:19;15:14,14; 27:7;35:13;91:5; 100:9;123:9,16; 124:1,1;138:6 <b>near (1)</b> 110:1 <b>necessarily (8)</b> 26:5;52:15;53:25; 78:9,17;79:7;153:19; 158:7 <b>necessary (14)</b> 7:22;25:18;54:19; 71:24;72:24;81:24; 93:18;106:14; 107:13,17;113:24; 132:23;139:15;143:1 <b>necessities (1)</b> 136:15 <b>need (42)</b> 8:6;12:18;30:6; 32:8;35:10;55:20; 58:10;70:3,12;73:2; 75:5;79:7;81:8; 103:15;106:20; 107:4,8,18;127:11; 135:16,23;136:6,12, 16,17,17,18;137:1,1, 3,12,16;139:2,2; 140:23;145:12; 150:21,25;151:22; 152:5,8;153:17 <b>needed (5)</b> 67:9;69:7;100:12; 125:9;137:9 <b>needing (2)</b> 25:14;151:2 <b>needs (7)</b> 37:18;106:10; 113:6,14;137:10; 141:5,17 <b>negotiated (1)</b> 28:18 <b>negotiations (1)</b> 157:19 <b>Neither (1)</b> 110:2 <b>Nevada (2)</b>
				<b>N</b>

163:24;164:4 <b>new (6)</b> 31:14;80:4;99:2; 121:24,24;166:17 <b>newer (1)</b> 29:9 <b>news (3)</b> 71:8,8;154:19 <b>newspaper (10)</b> 13:6;55:4;58:12; 65:11;66:6;67:16,18; 68:3,7;71:6 <b>newspapers (7)</b> 54:16;67:22,23,24; 68:13;71:1,3 <b>Nexis (1)</b> 36:21 <b>next (7)</b> 26:4;39:7,15,24; 43:8;47:1;57:14 <b>night (1)</b> 162:9 <b>nonmedicated (1)</b> 10:18 <b>nor (1)</b> 110:2 <b>normal (1)</b> 58:5 <b>Nos (2)</b> 95:2;122:8 <b>noted (1)</b> 59:21 <b>notes (2)</b> 64:11;78:20 <b>Notice (6)</b> 5:1;100:6;120:7; 121:13,13;127:23 <b>noticing (1)</b> 48:1 <b>number (7)</b> 103:12;110:1; 122:13;145:13; 146:22;155:12,13 <b>numbers (8)</b> 27:15;73:23; 99:19;124:15; 144:21;156:7;157:1, 4 <b>numerous (1)</b> 8:12	9:10;14;36:6; 86:11;88:11;140:14; 143:11;148:21 <b>observant (2)</b> 140:4;148:21 <b>observing (1)</b> 99:5 <b>obstacle (4)</b> 42:4;86:1;87:3; 92:10 <b>obtain (2)</b> 70:12;163:22 <b>obtaining (4)</b> 54:21;55:9;57:9; 58:9 <b>obvious (1)</b> 154:10 <b>obviously (8)</b> 38:12;82:22;88:6; 91:7;92:6;131:13; 151:14;157:7 <b>occasions (2)</b> 73:5;147:9 <b>occupation (2)</b> 6:20;8:17 <b>occurred (1)</b> 79:18 <b>October (5)</b> 100:2,18;111:11; 124:19,24 <b>off (7)</b> 7:11;94:9;102:5; 116:7;149:14; 158:13;165:10 <b>offer (1)</b> 130:25 <b>offered (2)</b> 162:14;164:20 <b>offers (1)</b> 36:21 <b>Office (7)</b> 38:8;45:15;48:5; 68:6;128:17;129:19, 20 <b>Offices (1)</b> 5:3 <b>Office's (5)</b> 38:2;39:2;45:10; 49:2;50:3 <b>often (5)</b> 13:7;25:12;37:22; 156:23;163:11 <b>oil (8)</b> 10:20;29:2,4,14, 15,25;30:6,18 <b>old (4)</b> 62:14,24;84:7; 108:5 <b>once (6)</b> 26:18;42:2;52:18; 65:14;67:17;130:22 <b>one (49)</b> 6:6,7,11;7:13;	12:25;14:13;15:3; 20:4,10,11,15,19; 28:4;31:4;37:9; 39:17,19;42:14; 51:21;52:16;57:19; 60:11;61:2;63:2; 65:13;67:18;85:24; 86:1,2;92:10;93:3; 102:20;107:5,12,19, 21;108:10;135:24; 142:7;143:23; 148:25;151:5,7; 155:10,14,20; 160:14,15,16 <b>only (11)</b> 30:3;60:12;61:2; 80:11;85:24;86:4,5; 88:8;103:3,4;119:8 <b>operate (2)</b> 22:19;30:7 <b>operated (2)</b> 12:17;13:15 <b>operating (2)</b> 7:1;22:18 <b>operation (2)</b> 73:14;151:12 <b>operations (2)</b> 25:8,17 <b>opinion (2)</b> 105:2,9 <b>opportunities (3)</b> 13:3;37:11,18 <b>opportunity (7)</b> 11:17;14:7;41:13; 55:15;114:7,23; 128:12 <b>opposed (7)</b> 15:14;62:17;69:2; 92:17;93:9;107:12; 127:24 <b>Opposers (4)</b> 5:8;61:9;116:10; 120:24 <b>opposer's (16)</b> 59:8,25;95:6,20, 25;105:10;117:7; 121:9,18;122:11,22; 123:4;124:15; 127:23;145:16;147:9 <b>Opposers' (1)</b> 116:18 <b>opposition (33)</b> 59:8,25;85:21; 86:3,8;87:25;88:17; 90:6;99:6;100:7; 110:18;113:7,12,16, 19,24;114:6,16,17, 22;115:10;116:4; 120:6;121:22; 126:22;127:3,24; 131:5;132:25; 136:24;139:4,5,9 <b>opposition's (2)</b>	121:6,24 <b>optimism (2)</b> 150:20,22 <b>optimist (1)</b> 150:14 <b>optimistic (4)</b> 12:22;59:2;70:2; 156:22 <b>optimistically (1)</b> 157:9 <b>option (6)</b> 40:14;146:12,14, 15;147:6,7 <b>options (9)</b> 27:8;42:14; 107:14,15;143:23; 144:1;145:7;146:18; 155:22 <b>order (1)</b> 155:4 <b>ordinary (2)</b> 154:12;158:10 <b>organic (1)</b> 159:23 <b>original (5)</b> 61:2;76:23;82:5; 100:3;111:17 <b>originally (4)</b> 61:1;79:9;82:1; 93:12 <b>others (1)</b> 102:11 <b>others' (1)</b> 36:1 <b>Otherwise (4)</b> 12:23;26:19;36:1; 81:19 <b>out (24)</b> 7:12;20:11;25:7; 36:14,16;37:19; 45:11;48:20;49:4; 63:3;67:1;69:9; 82:14;98:13;102:9; 107:4,8;125:6; 133:23;135:4;142:8, 18,19;154:2 <b>outbreak (1)</b> 71:9 <b>outlets (3)</b> 24:14;29:10;31:10 <b>outside (2)</b> 93:6,11 <b>outsourcing (1)</b> 138:21 <b>over (4)</b> 5:21;47:1;75:6; 93:10 <b>own (11)</b> 7:12,14;15:17; 19:19;39:14;151:25; 152:1,11,11,16; 157:11 <b>owned (4)</b>	12:16;13:15; 19:18,23 <b>owner (3)</b> 8:12;16:2;22:19 <hr/> <b>P</b> <hr/> <b>package (2)</b> 52:25;137:8 <b>packaged (1)</b> 52:20 <b>packaging (18)</b> 77:17,19;80:10,22; 81:1,2,25;83:3,13; 85:13;86:12;87:21; 92:16;107:11,23,25; 112:10;136:8 <b>packet (1)</b> 101:5 <b>page (29)</b> 10:8;33:21,22; 39:16;43:22,24,25; 46:4,13;47:1;101:4, 7,12;103:17,23; 104:6,23;105:7; 109:14,14,25; 112:15,23;117:21; 118:16;119:11; 126:7;144:23;145:17 <b>pages (4)</b> 25:5;117:6; 124:20;133:23 <b>paid (2)</b> 48:9;88:20 <b>paper (22)</b> 8:2;54:24;58:1; 87:23;88:1,6,18; 89:3,12,17;90:5,8; 101:5,6;122:3; 123:19;131:12; 133:1;134:10,13; 151:14;166:14 <b>papers (2)</b> 86:3;88:20 <b>paragraph (6)</b> 44:3,3,15,24;45:1; 46:1 <b>parallel (1)</b> 6:25 <b>paraphrased (1)</b> 65:17 <b>park (3)</b> 33:7;51:9,11 <b>parroted (1)</b> 111:6 <b>part (8)</b> 56:13;77:10,11; 78:2;88:23;89:10; 161:16;162:20 <b>parte (1)</b> 129:24 <b>particular (11)</b> 13:15;25:8;33:19;
<b>O</b>				
<b>oath (2)</b> 5:24;61:25 <b>objective (7)</b> 67:9;70:8;78:21; 81:13,14,17;82:12 <b>objectives (1)</b> 71:24 <b>obligation (2)</b> 148:13,15 <b>obligations (8)</b>				

34:1;51:11,23,24; 64:8;82:5;108:4; 143:2	46:23;47:22;59:2; 67:6;69:24;71:21; 79:21;82:23;85:20; 92:21;102:22; 108:10;145:8;154:7; 155:16;157:8,20	<b>Pleasure (1)</b> 5:15	<b>predict (2)</b> 56:10;128:23	140:6;142:2,10
<b>particulars (1)</b> 109:21	<b>personal (10)</b> 13:25;25:1;50:11; 71:17;125:2;151:3; 152:13,14,15,16	<b>Plow (1)</b> 50:21	<b>preface (1)</b> 158:6	<b>priorities (1)</b> 143:12
<b>parties (2)</b> 35:17;129:25	<b>personally (3)</b> 5:6;72:17;75:3	<b>pm (1)</b> 167:18	<b>preference (1)</b> 151:3	<b>priority (3)</b> 90:7,23;134:20
<b>parts (1)</b> 16:14	<b>perspective (1)</b> 93:1	<b>point (5)</b> 71:23;80:1; 104:18;120:19;141:7	<b>premature (1)</b> 143:11	<b>privilege (4)</b> 96:22;97:2;123:9; 124:1
<b>part-time (4)</b> 161:18;162:3,3,4	<b>pertain (1)</b> 15:11	<b>pointed (1)</b> 125:6	<b>prematurely (1)</b> 76:3	<b>privileged (1)</b> 96:13
<b>party (4)</b> 118:21;119:4,19, 22	<b>pharmacy (2)</b> 48:15;144:6	<b>points (1)</b> 65:4	<b>preparation (1)</b> 111:17	<b>proactive (2)</b> 12:24;13:1
<b>past (10)</b> 12:7;13:16;14:2, 15:31;13:38;11; 65:20;129:9;156:19; 157:10	<b>phone (2)</b> 25:5,9	<b>policy (1)</b> 72:22	<b>preparations (1)</b> 10:18	<b>probably (20)</b> 17:13;19:25;27:7; 34:22;40:11,12;47:7, 25;51:25;59:3;60:9; 65:10,15;66:10; 67:17;89:24;102:7; 126:4;146:13;156:22
<b>Patent (11)</b> 38:2,8;39:2;45:9, 14;48:4;49:1;50:2; 128:17;129:19,19	<b>phrase (2)</b> 92:3;120:18	<b>Political (2)</b> 159:13;160:6	<b>prepare (2)</b> 67:21;86:7	<b>problem (5)</b> 6:10;22:2;56:18; 58:14;115:8
<b>pay (7)</b> 31:18,18;66:22; 71:6;73:6;150:1,12	<b>pick (2)</b> 68:3,6	<b>poll (2)</b> 105:3,9	<b>prepared (3)</b> 67:13;86:13;99:12	<b>problematic (1)</b> 125:3
<b>paying (5)</b> 37:15;84:5;91:22; 93:9;109:8	<b>pieces (2)</b> 16:15;65:11	<b>position (3)</b> 93:7;134:7;152:9	<b>preparing (1)</b> 147:15	<b>procedure (3)</b> 25:20;96:21;163:7
<b>peanut (2)</b> 71:9;153:25	<b>pinpoint (2)</b> 105:23;107:19	<b>positions (1)</b> 13:14	<b>present (3)</b> 70:9;133:16; 134:15	<b>procedures (3)</b> 21:8;45:17;154:13
<b>pending (2)</b> 19:19;21:24	<b>place (1)</b> 41:18	<b>possess (1)</b> 158:5	<b>presently (1)</b> 134:14	<b>proceed (3)</b> 110:13;114:4,5
<b>people (30)</b> 13:9;25:5,25;30:5; 52:18;53:5;58:6; 70:7;73:19;83:3; 89:6;93:4;102:1,1, 17;103:3,9;105:25; 106:2;107:16; 108:15;136:8; 137:11;142:24,24; 150:25;151:5,6; 156:23;158:11	<b>Placer (1)</b> 17:19	<b>possession (1)</b> 127:7	<b>pressure (1)</b> 147:14	<b>proceeding (8)</b> 89:11;92:23; 114:6;126:22; 127:22;128:3;129:1, 24
<b>people's (1)</b> 131:11	<b>places (1)</b> 157:25	<b>possible (15)</b> 36:1;41:6;45:21; 48:11;53:5;56:16; 59:1;108:1;139:7; 146:8,17;148:22; 149:7,8;150:15	<b>presumably (1)</b> 129:20	<b>proceedings (5)</b> 6:4;72:18;95:1; 110:18;129:24
<b>per (4)</b> 149:23,24;150:1, 24	<b>plan (9)</b> 26:1;27:6;31:1; 42:20;69:3;70:22; 86:13;106:6;151:13	<b>possibly (1)</b> 79:12	<b>presume (1)</b> 68:18	<b>process (19)</b> 5:18,19,22;16:9; 25:15;53:3,21;75:16; 76:17,19;77:13;81:7; 82:1;89:10;100:13; 110:11,13;132:25; 148:11
<b>percent (3)</b> 89:2,2,16	<b>planning (2)</b> 138:19;141:23	<b>post (1)</b> 164:17	<b>presuming (1)</b> 24:22	<b>processing (2)</b> 16:4;71:10
<b>percentages (5)</b> 68:15,19,24;69:11, 16	<b>plans (7)</b> 30:24;31:1,12; 51:14;104:4,7;143:9	<b>postpone (1)</b> 25:12	<b>pretend (2)</b> 66:24;166:15	<b>produce (11)</b> 14:8;51:14;64:7; 90:25;123:4,8; 134:25;135:16; 149:23;150:13,24
<b>Perfect (10)</b> 6:5;11:1;18:16; 20:1,12;60:22;79:14, 20;94:2,3	<b>plants (1)</b> 71:10	<b>potential (1)</b> 154:3	<b>pretty (12)</b> 18:14;37:5;40:17; 65:25;117:12;121:2, 13;122:4;135:4,8; 142:13;147:13	<b>produced (5)</b> 61:9;115:25; 127:25;128:8,13
<b>perfectly (1)</b> 42:23	<b>plastic (2)</b> 136:17;137:7	<b>potentially (8)</b> 11:17;40:13; 56:19;70:16,16; 140:14;147:5;152:9	<b>previous (6)</b> 55:3,6;82:15,19; 135:20;153:7	<b>producer (1)</b> 56:13
<b>perhaps (2)</b> 108:6;153:13	<b>play (3)</b> 69:9;88:20;90:5	<b>practical (1)</b> 156:12	<b>previously (5)</b> 16:22;19:7;38:11; 135:22,25	<b>producing (6)</b> 15:5;90:11;113:8; 114:20,22;123:10
<b>person (17)</b>	<b>pleasant (1)</b> 163:1	<b>practice (1)</b> 166:13	<b>price (5)</b> 137:24;138:4,9,11; 141:7	<b>product (163)</b> 14:8,10;15:25; 16:1,5;24:4,16;



40:12;41:12,19,20; 42:2,8;44:21;49:11; 52:16;55:3,23;58:5; 63:18,19;64:16;70:6, 9,24;71:25;72:6,9; 73:2,6,6,16,17,19,21; 74:13,14,15,18,24; 75:4,13;76:1,13,13, 20;77:2,3,3,7,8,8,10, 10,16,22,25;78:2,8; 79:9,25;80:11,15; 81:1,4,82:18,21,25; 83:4,9;85:13;87:5, 12,20,21;88:4;89:1, 5,9,10;90:18,21; 91:1;92:16;93:8; 96:22;97:2,16,24; 99:9;101:23;102:2,4; 103:16;104:7,9,13; 106:11,13,15; 107:11,23;108:13, 15;109:20;110:4; 111:13,15;112:10; 113:8;114:15,20,22; 115:19,22;123:8,15; 124:8;125:25; 126:10,20;127:3,17, 20;130:23,24;131:3, 9;134:22,25;136:6, 16,22;138:12,19; 140:18;141:9,20,22, 24;142:6,12,18,25; 143:5,10,15;144:3; 145:8;150:16; 153:13,18,19,20; 154:8,16,22,24; 155:5,6;156:2,14; 157:4 <b>production (25)</b> 14:4,4,9,14;15:19; 16:4,4,17;31:18; 52:14,17;53:1,5; 77:22;81:7,14;88:3, 3,23;89:1,4;92:15; 122:12,22;136:15 <b>products (77)</b> 10:12,17,23;11:13; 12:19;23:1,3,5;24:6, 12;28:24;29:6,25; 30:3,4,11;34:16,20; 40:9;41:17;43:5; 53:9,24;54:13;55:10, 18;57:11,17,21; 58:17,18,23;71:18, 22;72:14;76:14; 78:8;79:2;82:2; 84:15;88:9,90:12,24; 104:4;107:3;109:2; 112:17;113:2;114:2, 8,12;117:24;118:5; 119:24;135:17; 136:12,13,20; 137:21,25;138:4,7; 139:1,23;140:9; 141:15;142:5,21; 144:8;145:19,21; 149:11,20;155:23; 156:24;158:11,15 <b>profession (2)</b> 101:14;103:10 <b>professional (8)</b> 21:4;43:15;56:12; 71:20;138:20,21; 140:5;154:7 <b>professionally (1)</b> 149:7 <b>profit (5)</b> 72:13;144:13; 149:19;150:7,9 <b>profitable (4)</b> 73:9,17,19,20 <b>progress (15)</b> 37:15;75:12,14,16, 20,23;76:17;77:21, 23;86:17,18;87:19; 88:4;93:7,20 <b>progression (1)</b> 26:10 <b>prohibit (2)</b> 41:12;72:8 <b>project (11)</b> 55:14;69:7,13; 70:5;79:21;86:20; 88:4,10;89:17;106:9; 137:16 <b>projects (1)</b> 152:1 <b>promoting (5)</b> 112:17;113:1,22; 114:1,12 <b>promotional (1)</b> 102:21 <b>propagate (2)</b> 6:24;12:8 <b>properly (1)</b> 154:10 <b>property (4)</b> 35:22;39:14;93:3; 165:5 <b>proposed (1)</b> 154:1 <b>proposing (6)</b> 27:2;119:22; 120:9,11,18;121:5 <b>proposition (1)</b> 150:9 <b>proprietorship (4)</b> 17:4,5,8;19:7 <b>prosecute (1)</b> 21:21 <b>prospect (1)</b> 146:15 <b>prospective (1)</b> 121:18 <b>protected (1)</b> 124:7 <b>protection (1)</b> 64:2 <b>provide (4)</b> 107:1;109:21; 130:5;136:8 <b>provided (4)</b> 111:5,10;125:20; 127:9 <b>providing (1)</b> 102:20 <b>PTO (6)</b> 20:24;87:24; 89:12,14;116:1; 134:14 <b>PTO's (2)</b> 9:21;131:13 <b>pull (2)</b> 20:11;133:23 <b>pulling (1)</b> 14:8 <b>purchase (1)</b> 30:1 <b>purchasers (1)</b> 145:21 <b>purposes (5)</b> 8:25;17:24;35:11; 43:13;69:7 <b>pursuant (1)</b> 5:1 <b>pursue (9)</b> 25:17;38:19; 70:19;77:24;83:14; 91:3;92:15;110:15; 138:13 <b>pursued (1)</b> 47:11 <b>pursuing (6)</b> 77:24;92:17; 113:7,11;120:24; 164:7 <b>put (6)</b> 16:6;34:22;66:10; 123:22;124:2;143:10 <b>putting (2)</b> 16:14;27:5 <b>Q</b> <b>QTK (3)</b> 18:24,25;108:19 <b>qualifies (1)</b> 56:9 <b>quality (4)</b> 72:6;154:16; 158:11,15 <b>quantify (1)</b> 89:20 <b>quantifying (2)</b> 66:12;106:22 <b>quarter (1)</b> 159:25 <b>quarters (1)</b> 160:4 <b>quick (9)</b> 36:15;39:1;40:17; 41:1,2,3,8;50:2; 102:5 <b>quickly (21)</b> 37:18;41:8;65:16; 66:6;80:7;97:5,13, 19,22;98:4;99:7; 121:14;134:25; 135:4,9;146:8,8; 147:2,3,13;149:2 <b>quite (2)</b> 40:24;81:23 <b>quoting (1)</b> 101:13 <b>R</b> <b>radiation (5)</b> 65:7,23;66:4,16,16 <b>range (7)</b> 65:7;66:1,2,3,11, 12,14 <b>rash (1)</b> 154:3 <b>rates (1)</b> 152:10 <b>rather (4)</b> 73:24;82:3;146:1; 152:10 <b>raw (1)</b> 136:5 <b>read (44)</b> 13:6,7;14:21,23; 40:20,22;46:1;47:7, 9;58:1,12;67:24; 68:7;71:1,3,3,11,13; 76:5,7;78:12,14; 80:17;87:7,9;101:17; 103:25;104:25; 109:22;110:17,23; 112:20;113:3,4; 118:6,12,24;119:3; 121:1;126:12; 145:23;146:25; 149:6;154:20 <b>reader (1)</b> 49:17 <b>readily (1)</b> 53:23 <b>reading (9)</b> 44:15;47:3;65:12; 66:6;67:22;71:5; 120:4;121:5,21 <b>reads (18)</b> 33:17;44:7;46:5,9; 105:7,12;109:17; 110:2,5;112:15,24; 117:22;118:3,20; 126:9;144:25; 145:17;146:1 <b>ready (5)</b> 67:7;84:13;88:16, 17;144:3 <b>Real (19)</b> 6:16,21;7:6;8:10, 11;11:5,24;13:18; 17:23;18:23;31:15, 15;39:22;74:13; 89:25;102:7,16; 150:6;164:18 <b>realistically (1)</b> 155:10 <b>realizations (1)</b> 124:6 <b>realize (1)</b> 54:5 <b>really (31)</b> 13:9,10;25:10; 26:6;41:25;42:4; 49:17;53:7;61:5; 68:1;72:20;73:12; 74:8;84:18;86:14; 93:20;109:6;114:13, 15;116:4;127:12; 136:4;138:10; 142:21;146:16; 147:14;150:21; 154:17;162:17; 163:7;166:10 <b>realm (1)</b> 134:25 <b>Realtyiacom (1)</b> 39:21 <b>reason (12)</b> 8:16;32:25;51:7, 23;52:3;56:19; 114:15;123:9; 124:12;133:2; 148:14;166:24 <b>reasonable (1)</b> 130:22 <b>recall (36)</b> 16:25;17:16;18:8, 15;19:3,10;20:6,20; 21:17,19;22:25; 27:11,20,24;28:10; 36:12;38:5,6,7,15; 39:4;44:15;45:7,9; 47:3;51:25;55:8; 59:9,20;79:4;97:15; 159:21;162:7;163:5; 164:16;166:7 <b>receive (1)</b> 160:25 <b>received (4)</b> 54:25;100:6; 125:6;161:4 <b>recent (1)</b> 144:15 <b>recently (3)</b> 62:17;71:8;80:16 <b>Recess (4)</b> 50:24;94:10; 149:15;165:13 <b>recipe (4)</b>
--

64:10;67:11;74:1; 77:2 <b>recognize (13)</b> 16:5;37:18;48:20; 53:12;92:8;98:4; 121:7;130:25; 147:20,24,25; 155:16;157:8 <b>recognized (1)</b> 88:2 <b>recognizing (7)</b> 89:7;106:11; 108:11;120:8; 121:23;142:7;143:6 <b>recollect (1)</b> 32:18 <b>recollection (6)</b> 21:23;60:6;65:21; 68:21;79:14;121:15 <b>recommendation (1)</b> 108:16 <b>recommending (1)</b> 142:25 <b>record (11)</b> 6:9;14:23;40:22; 50:25;76:7;78:14; 87:9;94:9;149:14; 165:10;167:5 <b>red (1)</b> 103:2 <b>reference (15)</b> 10:22;23:24;34:4; 44:11;25:45;1:62;3; 82:15;108:12; 110:17;116:1; 146:14,23;149:6; 154:24 <b>referenced (13)</b> 23:23;27:22,23; 30:14;51:12;54:24; 59:23;64:14;65:16; 68:25;89:14,14; 153:4 <b>references (3)</b> 78:21;82:13; 157:10 <b>referencing (6)</b> 63:12;77:15; 82:19;106:6;135:23; 147:6 <b>referral (2)</b> 142:23;150:17 <b>referring (2)</b> 75:8;120:20 <b>refers (2)</b> 43:20;106:19 <b>reflected (2)</b> 76:22,24 <b>reflection (1)</b> 104:17 <b>reflects (2)</b> 66:4;115:23 <b>regard (1)</b>	111:19 <b>regarding (12)</b> 30:18;38:8;54:9; 13;123:14;124:7; 139:22;140:8;152:3, 7;157:20;167:6 <b>regards (4)</b> 8:15;96:7;127:2; 139:14 <b>register (4)</b> 17:10;41:15; 114:8,24 <b>registered (16)</b> 18:9;20:3,4,7,20; 23:8,10,23;26:18; 27:17,25;28:8;35:1, 4;77:9;85:7 <b>registering (2)</b> 21:5;25:15 <b>registration (3)</b> 20:24;26:12;90:10 <b>registrations (3)</b> 19:18,23;21:2 <b>regular (1)</b> 141:5 <b>regularly (1)</b> 67:25 <b>regulated (2)</b> 69:21;72:1 <b>regulations (1)</b> 54:13 <b>rehearsed (1)</b> 92:3 <b>reimbursing (1)</b> 167:6 <b>reiterate (1)</b> 104:21 <b>relate (3)</b> 99:3;105:24; 146:25 <b>related (6)</b> 11:11;23:18;44:9; 55:9;71:9;120:23 <b>relations (2)</b> 159:14;160:7 <b>relatively (1)</b> 144:15 <b>relevant (7)</b> 8:14;72:18; 126:22;156:6,7,15, 16 <b>relied (2)</b> 108:21;157:25 <b>rely (6)</b> 109:3;130:11; 132:8;148:2;150:8; 152:8 <b>relying (5)</b> 130:13,14;151:1,2; 152:13 <b>remember (30)</b> 20:5;22:3;33:13; 38:4,10;43:20;44:23;	45:4,5,6,13;47:5,8; 48:6;51:16,17;63:25; 64:12,13;78:18; 97:23,25;98:2; 121:13;124:9;125:5, 8;145:3;158:13,14 <b>REMEMBERED (1)</b> 5:1 <b>remembering (2)</b> 36:8;116:2 <b>remove (3)</b> 72:2;87:2;144:12 <b>Reno (2)</b> 163:24;164:4 <b>rent (3)</b> 73:7;91:23;93:9 <b>repeat (1)</b> 78:11 <b>rephrase (4)</b> 14:19;80:19; 113:22;131:21 <b>Reporter (10)</b> 5:6;6:6,8;14:23; 40:22;43:13;76:7; 78:14;87:9;116:14 <b>request (15)</b> 117:22;118:3,10, 19,20;119:12; 120:16,17,22,22; 122:12,22;124:15; 126:8;127:1 <b>requests (22)</b> 6:6;116:9,10,11, 19;117:7,13,19; 119:8,8;121:16; 122:13;123:5; 125:15,21;127:8; 147:10,10,11,12,17, 18 <b>required (9)</b> 72:5;89:8;93:19; 102:18;143:7; 146:10,11;154:15; 162:22 <b>requirement (6)</b> 34:10;116:6; 153:19;157:3,6; 162:20 <b>requirements (12)</b> 7:19;17:7;43:12; 54:18,21;57:9;58:8, 10,11;72:1,24;140:8 <b>requiring (1)</b> 129:2 <b>research (23)</b> 11:15;13:2;23:24; 24:1;36:21;37:11,19; 45:10;54:20;55:8,9, 12;57:8;70:7;97:15; 98:12;124:6;139:22; 140:2,24;151:21; 155:17;162:16 <b>researched (7)</b>	54:15,17;140:7,10, 11,12,22 <b>resistant (1)</b> 63:23 <b>resolution (3)</b> 56:16;113:19,23 <b>resolve (1)</b> 56:20 <b>resource (1)</b> 38:3 <b>resources (8)</b> 26:20,25;42:23; 81:20;92:15;151:25; 152:1;155:19 <b>respect (33)</b> 11:18;15:4;16:8; 17:22;18:6;26:7,8; 34:25;35:3;52:11; 56:5;58:9;65:18; 66:12;68:14;75:12; 81:19;87:21;98:20; 104:16;108:3,17; 109:1;115:20; 125:14,21,24;132:3; 139:13;148:24; 153:24;157:14,16 <b>respective (1)</b> 18:9 <b>respond (2)</b> 97:5,20 <b>responded (5)</b> 33:6;41:8;79:6; 96:8,25 <b>responding (1)</b> 147:9 <b>response (29)</b> 59:24;95:19; 96:11;98:7;99:12,13; 101:12,12;103:7,12; 104:6;105:7;111:5; 112:24;117:6; 122:22;125:14; 126:8,18,25;127:22; 128:20;144:24; 145:11,25;146:1,21; 147:4;148:24 <b>responses (25)</b> 86:7;95:25;99:18; 100:2,4,5,16,17; 108:8;123:12;124:5, 15,24;125:1,3,25; 135:7;144:21; 147:15,17,23;148:2, 13,18,20 <b>responsibilities (1)</b> 8:9 <b>responsible (1)</b> 71:21 <b>responsive (2)</b> 123:4;127:8 <b>result (2)</b> 64:8;161:12 <b>retail (5)</b>	31:10;142:12; 144:7;145:1;146:2 <b>retain (1)</b> 166:19 <b>retiree (1)</b> 108:6 <b>retirees (1)</b> 107:3 <b>retrievers (1)</b> 33:11 <b>retype (1)</b> 60:20 <b>review (9)</b> 9:23;43:17;45:2; 59:12;95:8;96:14; 99:21;122:15;147:1 <b>reviewed (7)</b> 9:25;55:17;95:22; 99:11,23;126:3; 147:17 <b>revised (1)</b> 113:15 <b>revision (1)</b> 9:18 <b>revisions (1)</b> 60:19 <b>revisit (2)</b> 100:10;125:9 <b>rewarded (1)</b> 91:16 <b>ridiculous (1)</b> 157:5 <b>Right (78)</b> 7:7;10:11;11:14; 12:1;13:7,21;14:3; 15:2,6,8,16,21,24; 16:12,24;15:26;4,21; 27:1;28:1,2,6,9;29:9, 16;31:7;32:21;35:2; 36:3;38:19;44:6; 46:24;47:6,23;48:12; 50:20,51;22;57:12; 62:8;64:10,20;65:3; 71:7;76:21,25;78:10; 83:20,24;84:19;85:2, 15;90:2;91:21,23; 95:14;103:24; 111:12;114:9; 115:13;121:4,20; 127:10;129:24; 134:9,20;140:12; 142:22;148:7; 150:16,16;151:7,10; 155:6,20;156:13; 160:18;161:7;165:8; 166:1 <b>rightfully (1)</b> 91:17 <b>ring (1)</b> 64:2 <b>ringing (2)</b> 20:9;166:2 <b>risk (3)</b>
--	--	---	---	--

72:2;93:4;154:10 <b>risking (1)</b> 81:20 <b>river (1)</b> 128:16 <b>roll (1)</b> 135:13 <b>room (1)</b> 82:8 <b>roughly (1)</b> 89:16 <b>Rule (4)</b> 98:20,23;99:10,11 <b>rules (4)</b> 69:25;96:21; 162:23;163:5 <b>run (2)</b> 14:1;161:3	64:21;83:22; 104:20;105:23 <b>schedule (9)</b> 37:23;45:19; 50:15;52:17;55:16; 71:5;88:12;90:4; 139:3 <b>scholarship (1)</b> 161:12 <b>school (20)</b> 158:21,22;159:2; 160:13,14,16,17; 161:1,17,19;162:15, 15,21,25;163:16,19, 24;164:23,24;166:18 <b>schooling (3)</b> 12:4;158:1;167:1 <b>schools (3)</b> 163:13,17;164:14 <b>science (3)</b> 159:13;160:6,8 <b>scientific (1)</b> 56:8 <b>scope (4)</b> 21:6;123:15; 124:7;134:17 <b>screens (2)</b> 10:15;51:6 <b>search (13)</b> 35:25;36:13,14,15; 38:9;39:2;48:4,7,8; 49:8,9;50:2,8 <b>searched (3)</b> 49:6,7,8 <b>searches (1)</b> 37:1 <b>searching (1)</b> 49:10 <b>second (4)</b> 28:7;44:3;50:22; 65:6 <b>section (10)</b> 43:9,12;44:5,12, 16;45:1,12;46:10,17; 47:4 <b>secure (2)</b> 81:24;84:16 <b>secured (4)</b> 26:11,18,21,21 <b>seeing (5)</b> 89:7;117:15; 137:24;141:19,21 <b>seek (1)</b> 153:14 <b>seem (10)</b> 35:12;40:18; 48:20;56:15;70:23; 81:3;107:13,17; 123:23,25 <b>seemed (3)</b> 51:13;74:17;102:3 <b>seems (23)</b> 10:6;50:8;52:1;	53:5;58:5,19;60:8; 66:11;73:23;88:6; 93:6;96:18;97:3; 107:14,18;109:6; 115:5,6;120:1;122:2; 123:6;142:21;149:3 <b>segment (1)</b> 67:18 <b>selected (2)</b> 32:25;53:13 <b>selecting (1)</b> 51:23 <b>selection (1)</b> 51:8 <b>selective (1)</b> 48:11 <b>self (1)</b> 14:17 <b>Self-employed (4)</b> 6:18,19,22;7:10 <b>sell (33)</b> 12:18;24:19;25:3; 27:2;29:11;30:9; 42:3,8;51:3;73:6; 76:15,22;79:1;84:15; 90:21;102:3;103:16; 104:4,7;108:13; 111:18;115:18,21; 136:12;141:22; 142:8;143:14,24,24; 144:7;150:17; 153:18,20 <b>selling (31)</b> 15:25;29:6;40:8; 41:11;42:9;53:22; 57:17,21;58:2,23,23; 72:14;83:19;90:12; 101:23;106:15; 111:12;112:16; 113:1,13,21;114:1, 12;141:15,20,23; 142:5,6,17;149:11, 20 <b>semesters (1)</b> 159:24 <b>sense (6)</b> 13:2,10;22:10; 76:3;148:1;158:9 <b>sent (1)</b> 33:2 <b>sentence (6)</b> 87:8,13,14,18; 104:17,20 <b>sentences (1)</b> 98:13 <b>separate (2)</b> 82:22,22 <b>sequence (7)</b> 26:17;51:19;52:5; 79:16;81:8;84:21; 139:14 <b>sequencing (1)</b> 85:1	<b>sequential (3)</b> 84:22;114:3; 139:16 <b>sequentially (1)</b> 81:19 <b>series (3)</b> 159:22,23;160:1 <b>serve (1)</b> 61:22 <b>served (3)</b> 95:12;116:11,12 <b>service (4)</b> 102:18,20;109:20; 118:23 <b>services (7)</b> 36:14;37:3;104:4; 112:17;118:5; 145:19,22 <b>serving (2)</b> 86:3;124:5 <b>set (8)</b> 5:10;64:6;95:6,20; 116:10,18;117:7; 145:16 <b>several (7)</b> 62:16;64:5;73:5; 157:25;159:18,20; 163:13 <b>SF (2)</b> 160:17;161:1 <b>sheet (1)</b> 65:16 <b>shelf (6)</b> 48:3,24,25;58:17; 144:6,7 <b>shifting (2)</b> 103:19;104:5 <b>shirts (2)</b> 24:9;31:9 <b>shop (2)</b> 58:18;68:5 <b>shopping (1)</b> 32:3 <b>shorter (2)</b> 117:5;124:18 <b>Shorthand (2)</b> 5:6;98:6 <b>show (3)</b> 102:22;133:23; 134:23 <b>showing (3)</b> 80:5;103:3;131:7 <b>side (4)</b> 6:23;86:19;88:13; 90:1 <b>signed (4)</b> 45:3;128:20; 129:14;132:4 <b>SILVER (6)</b> 5:7;39:9;149:17; 165:15;167:19,23 <b>similar (9)</b> 14:5;28:21;37:1;	52:16;63:6;71:18; 118:22;124:25; 139:22 <b>similarity (1)</b> 20:17 <b>single (2)</b> 96:4;137:12 <b>sit (16)</b> 26:23;34:8;56:25; 60:6;69:15;121:15; 127:5;138:3;140:16; 144:5;150:3;154:4; 155:9;161:23;163:4; 165:2 <b>site (10)</b> 9:21;30:13;32:3; 38:2;39:3;45:10,15; 48:5;49:2;50:3 <b>sitting (4)</b> 93:10;142:16; 164:25;165:3 <b>situation (11)</b> 40:17;42:19,23; 62:19;71:18;86:13; 92:2;124:25;133:22; 154:21;163:10 <b>situations (2)</b> 50:10;156:8 <b>six-page (1)</b> 9:16 <b>size (5)</b> 29:16,17,18;33:19; 34:2 <b>skeptical (1)</b> 130:1 <b>ski (4)</b> 24:17,19,24;31:5 <b>skill (1)</b> 14:5 <b>skills (2)</b> 12:17;37:9 <b>skin (7)</b> 10:17,18,19; 107:16;117:23; 119:23;154:1 <b>sleep (1)</b> 86:6 <b>slightly (1)</b> 113:14 <b>slipped (1)</b> 149:1 <b>slugs (1)</b> 159:4 <b>small (7)</b> 21:14;22:19;78:2; 107:21;156:24; 157:8;158:16 <b>smarts (1)</b> 158:10 <b>snapshot (2)</b> 131:22,23 <b>snowboard (4)</b> 24:17,20,25;31:5
<b>S</b>				
<b>safe (5)</b> 12:15;21:7;26:23; 38:14;42:6 <b>sale (16)</b> 29:11;31:22;42:5; 43:4;52:11;53:9,24; 102:3,24;109:7; 110:15;111:15; 137:24;142:15; 143:1;144:4 <b>sales (15)</b> 11:12;106:7; 107:19,21;138:4; 143:5,20,21;144:2; 145:1,2,9;146:2,3; 147:6 <b>salmonella (3)</b> 71:9;153:25; 154:18 <b>same (11)</b> 16:23;19:13;33:6; 41:9;60:25;85:24; 98:19;101:5;112:22; 148:6;166:17 <b>San (10)</b> 5:4,4;17:17; 160:16;161:16; 162:14,21;163:15, 18;164:3 <b>Santa (6)</b> 159:1,5,6,7,8,25 <b>sat (1)</b> 161:25 <b>satisfactory (3)</b> 97:20;125:7; 154:16 <b>save (3)</b> 60:19;80:17; 156:21 <b>savings (1)</b> 152:11 <b>saying (4)</b>				

<b>socioeconomic (2)</b> 104:3,9	48:11;84:22;89:15	104:12;112:16,19, 25;113:7,12,15,15; 114:3,11;115:11; 127:18	97:10;121:21; 127:14;129:18; 131:5,16;132:12	157:16,17
<b>sold (11)</b> 23:1,5;24:7,12; 28:25;85:14;104:3, 10,13;146:14,14	<b>spent (2)</b> 7:13;131:6	<b>still (30)</b> 23:7,10;24:10; 77:5,21;81:16,23; 96:10;100:17; 101:19;104:14; 105:13;110:6,10,11; 111:16;112:14,22; 113:5;114:10;118:1, 8,14;126:14,15; 127:1;139:3,18; 142:14;146:20	<b>submitting (1)</b> 38:12	<b>supplement (4)</b> 100:1,5;124:23; 148:13
<b>Sole (4)</b> 17:4,5,8;19:7	<b>SPF (5)</b> 63:15,22,22,24; 65:5	<b>stop (2)</b> 40:18;84:4	<b>subscribe (3)</b> 68:9,12,13	<b>supplemental (10)</b> 100:16;125:24; 126:6;144:21,23,24; 145:10;146:1; 148:18,24
<b>somehow (1)</b> 38:17	<b>split (5)</b> 81:6;84:4;91:2; 113:10,11	<b>store (9)</b> 48:1,13,15,21,22; 49:2,24;58:17;144:7	<b>subscriptions (1)</b> 68:2	<b>supplied (2)</b> 133:1;134:14
<b>someone (6)</b> 36:15;47:12; 56:14;82:9;88:25; 108:14	<b>splitting (1)</b> 81:4	<b>stores (4)</b> 142:12,12;145:1; 146:3	<b>Subsequent (1)</b> 124:4	<b>supply (4)</b> 96:6;97:20;98:5; 127:11
<b>sometimes (9)</b> 18:18;22:2,36:7; 50:8;60:22;65:23,24; 84:4;106:8	<b>sponsorship (2)</b> 24:15,16	<b>story (1)</b> 51:9	<b>subsequently (1)</b> 147:16	<b>support (5)</b> 133:25;134:7; 150:20,22,24
<b>somewhere (5)</b> 17:20;49:1,62:6, 22;89:16	<b>sponsorships (1)</b> 31:5	<b>Street (3)</b> 5:4;68:9;158:9	<b>substance (1)</b> 58:20	<b>supports (1)</b> 133:17
<b>soon (3)</b> 88:10,14;139:7	<b>spring (2)</b> 107:8;141:3	<b>stress (2)</b> 50:10,11	<b>substances (1)</b> 69:20	<b>sure (38)</b> 6:14;8:14;9:9,12; 11:3,20;26:17;27:24; 33:5;36:17,18;37:4; 5:38;4:41;6:42;11; 48:17;50:23;52:5,8, 25;64:23;65:14; 67:19;68:8;70:17; 79:15;81:5;85:3; 100:16;108:7;121:2, 11;122:4;147:25; 155:14;157:2;167:4
<b>sorry (13)</b> 14:19;28:6;46:11; 61:4;78:23;87:17; 103:22;110:19,20; 130:9;137:5;141:11; 159:6	<b>stage (2)</b> 56:15;57:14	<b>stretch (1)</b> 36:9	<b>substantially (1)</b> 124:18	<b>surf (1)</b> 31:25
<b>sort (4)</b> 16:11;56:21; 147:14;158:1	<b>stand (1)</b> 50:22	<b>stretched (1)</b> 32:6	<b>successful (5)</b> 114:17,18,23; 115:5,9	<b>surprise (2)</b> 66:15,19
<b>sought (1)</b> 157:17	<b>standard (1)</b> 33:18	<b>Strike (1)</b> 87:6	<b>sufficient (1)</b> 97:21	<b>surrounds (1)</b> 83:5
<b>sounds (7)</b> 58:13;60:3,8;64:3; 65:25;95:13;132:19	<b>standards (1)</b> 72:6	<b>students (2)</b> 107:7;141:2	<b>suggest (2)</b> 86:16;136:20	<b>survey (2)</b> 105:2,9
<b>sources (3)</b> 135:15;136:5; 151:21	<b>stands (1)</b> 64:1	<b>studied (1)</b> 54:17	<b>suggested (1)</b> 46:2	<b>suspect (1)</b> 108:4
<b>SOUSOURES (1)</b> 5:5	<b>start (3)</b> 7:11;42:20;106:25	<b>study (10)</b> 27:13,16;105:7,9; 106:4,14;123:17; 140:5;161:13;162:4	<b>sun (5)</b> 10:15,15;51:6; 63:22;64:2	<b>sweat (2)</b> 24:8;31:9
<b>space (2)</b> 144:6,7	<b>started (5)</b> 14:2;18:8;22:22; 91:4,5	<b>stuff (2)</b> 15:9;74:2	<b>sunblock (2)</b> 10:19,20	<b>sworn (1)</b> 5:9
<b>speak (4)</b> 13:10;64:23;80:6; 92:4	<b>starting (1)</b> 40:16	<b>style (2)</b> 33:19;34:1	<b>suncare (2)</b> 10:18,19	<b>system (1)</b> 160:1
<b>sounds (7)</b> 58:13;60:3,8;64:3; 65:25;95:13;132:19	<b>State (9)</b> 17:10,13,13;21:1, 1;109:17;163:18,20; 164:3	<b>sub (1)</b> 123:25	<b>sunscreen (27)</b> 10:19;48:1,13,16; 52:20;54:25;58:2; 63:11;65:11;73:18; 77:3,18;78:10,19,21; 79:10;82:13;83:19; 93:13;106:13;107:4, 8;111:20,21;130:6; 132:16;141:5	
<b>sources (3)</b> 135:15;136:5; 151:21	<b>statement (7)</b> 33:17;34:5,9; 96:12;118:18; 120:10,16	<b>subjective (3)</b> 41:3;91:24,25	<b>sunscreens (1)</b> 54:14	
<b>SOUSOURES (1)</b> 5:5	<b>statements (1)</b> 85:10	<b>submission (2)</b> 59:22;124:4	<b>suntan (1)</b> 10:20	
<b>space (2)</b> 144:6,7	<b>States (1)</b> 23:1	<b>submit (7)</b> 21:9;97:22;98:11; 99:7;123:19,21; 130:24	<b>SUPER (52)</b> 19:20;25:13; 32:23,24,24;33:8,16; 34:16;38:18;49:15, 20;51:3;75:11;78:5, 9;79:3;81:24;82:3, 18;84:16;90:10,20; 92:18;93:11,23; 105:3,10;108:3; 109:2,20;110:4; 112:18;113:2;114:8; 117:23;118:4,11,21; 119:4,19,23;120:5,6, 24;121:6,18;126:11; 129:15;132:1;134:1;	
<b>speak (4)</b> 13:10;64:23;80:6; 92:4	<b>stating (1)</b> 129:14	<b>submitted (13)</b> 26:14;54:23; 59:17,25;62:7;89:4;		
<b>speaking (2)</b> 85:20;151:17	<b>status (3)</b> 104:3,9;111:2			
<b>specific (2)</b> 44:1;106:18	<b>statute (5)</b> 44:11;45:2,7;46:2; 72:4			
<b>specifically (4)</b> 41:17;43:7;64:7; 143:22	<b>statutes (1)</b> 149:6			
<b>specifics (3)</b> 28:3;44:24;107:15	<b>step (12)</b> 22:8;26:4;31:3; 33:15;42:24;73:24, 24;78:3;100:15; 113:8,9;126:17			
<b>speculating (1)</b> 153:16	<b>steps (19)</b> 38:15;47:16;83:7; 85:11,18;87:11,16;			
<b>speed (1)</b> 11:16				
<b>spend (1)</b> 76:2				
<b>spending (3)</b>				

## T

**Tahoe (3)**  
17:21,21;24:22

**takers (1)**  
93:4

**talk (19)**  
8:22;19:17;22:12;  
28:14;32:12;51:2;  
63:13;92:24,25;  
132:19,22;136:7,8;  
148:9;151:17;156:6;  
157:24;158:19;  
166:25

**talked (1)**

51:5 <b>talking (15)</b> 10:24;14:17,18; 15:4;76:18;99:11; 106:4,21;120:15; 128:1,22;129:7,8; 142:24;156:5 <b>tangent (1)</b> 102:5 <b>tangible (2)</b> 16:1;27:6 <b>target (5)</b> 25:7;102:13; 106:18;107:6,24 <b>targeted (3)</b> 29:22,24;31:4 <b>targeting (4)</b> 30:5,6;107:2; 141:2 <b>teams (5)</b> 24:17,20,25;31:5,6 <b>technical (1)</b> 32:5 <b>telling (1)</b> 96:15 <b>temporary (3)</b> 12:5;14:16;15:7 <b>term (2)</b> 34:16;41:3 <b>terms (2)</b> 13:25;14:12 <b>test (1)</b> 22:1 <b>tested (1)</b> 154:11 <b>testified (1)</b> 5:9 <b>Texastea (9)</b> 20:4;21:19;22:9; 28:20,23;29:23; 30:12,18;35:3 <b>textbook (1)</b> 93:25 <b>Thanks (5)</b> 5:14;6:16;11:2; 20:11;167:12 <b>thereby (2)</b> 7:14;144:12 <b>thereof (1)</b> 5:3 <b>thereupon (1)</b> 5:9 <b>thin (1)</b> 32:6 <b>thinking (8)</b> 37:10;53:14,15; 54:2;82:20;121:17; 138:20;140:18 <b>third (6)</b> 35:17;46:8; 118:21;119:4,19,22 <b>thoroughly (1)</b> 52:13	<b>though (14)</b> 16:1;27:5;34:10; 53:2;64:1;69:24; 70:1;75:2;85:9,9; 105:24;123:3; 139:17;166:12 <b>thought (14)</b> 38:23;41:18;42:7; 47:11,14;71:16; 84:18;97:6,23;98:1; 116:8;151:9;163:9; 164:24 <b>three (25)</b> 32:20;34:3;36:4,9, 18;42:15;44:18; 45:23;46:13;47:8; 48:19;49:25;52:2; 54:1;57:6,7;74:5; 75:6,10;77:4;83:2,7; 117:18;124:20; 138:23 <b>throughout (2)</b> 6:3;12:3 <b>throw (1)</b> 27:15 <b>Throwing (1)</b> 157:1 <b>tie (2)</b> 82:2,5 <b>timeline (24)</b> 55:7;77:22;81:8, 15;85:1;88:3;92:9; 96:7;97:4;106:10; 123:22;125:1,4; 127:17;128:23,24; 132:21;134:19; 139:15,19;140:23; 143:6;153:17;155:18 <b>timely (1)</b> 139:6 <b>times (6)</b> 67:23;68:12;86:5; 91:19;138:8;147:13 <b>timing (5)</b> 25:11;32:6,7; 41:25;85:2 <b>today (26)</b> 26:24;29:12; 56:25;60:6;69:16; 74:5;85:20;91:9; 100:17,18;121:15; 127:5;134:5;138:3; 140:16;142:3,17; 144:5;150:3;154:4; 155:9;156:1,4,5; 163:4;167:7 <b>together (8)</b> 13:17;14:9;16:15; 79:16;90:24;105:16; 114:15;148:20 <b>told (3)</b> 145:5;146:6;166:8 <b>tomorrow (1)</b>	155:21 <b>toners (1)</b> 10:19 <b>took (6)</b> 56:3,6;159:22; 162:8;163:5,7 <b>tools (5)</b> 36:13,22;37:19; 45:15,18 <b>top (4)</b> 39:15;63:11; 109:14;158:14 <b>tote (1)</b> 29:17 <b>touch (1)</b> 30:21 <b>tough (1)</b> 66:9 <b>Tours (7)</b> 20:9;21:18;22:3,9, 12;23:2,25 <b>toward (8)</b> 40:7;46:8;83:4; 93:8;112:16,25; 114:11;115:12 <b>towards (1)</b> 113:9 <b>track (1)</b> 84:8 <b>trade (3)</b> 144:25;145:18; 146:2 <b>trademark (42)</b> 9:21;10:5;19:18, 22;20:18,23;21:2,8; 26:12;37:6,6;38:2,8; 39:2,8,24;43:2,16; 45:10,15,16;48:5; 49:2;50:3;77:9; 82:17;83:19;112:18; 113:2,16,23;118:22, 22;128:17,17; 129:19,20;132:9,14; 133:16;147:22; 165:18 <b>trademarks (1)</b> 20:21 <b>train (1)</b> 116:7 <b>training (2)</b> 56:1,9 <b>transferable (1)</b> 53:23 <b>transferred (2)</b> 163:23;164:5 <b>translation (1)</b> 65:25 <b>travel (1)</b> 167:6 <b>tremendous (3)</b> 86:18,19;87:23 <b>trial (8)</b> 128:7,7,12,13,18;	133:16;147:22; 165:18 <b>tried (5)</b> 6:24;22:17,20; 96:9;98:14 <b>trouble (3)</b> 18:18;36:7;38:24 <b>true (7)</b> 74:5;85:9,10; 102:7;136:21; 140:19;145:5 <b>truthfully (1)</b> 5:24 <b>try (53)</b> 7:2;8:14;11:21; 12:8,22;21:16;38:25; 42:2,24,24;45:19; 46:1;52:24;62:13; 69:1,8;70:19,23; 71:21,21;73:22,24; 74:20,24;75:1;80:19; 83:14;86:11,16; 89:20;90:24;91:16; 92:9,9;93:19,20; 94:1;99:5;100:10; 106:17;111:4; 123:18,22;129:5; 131:21;135:5; 138:10;143:9; 148:18;154:23; 155:12,17;166:15 <b>trying (77)</b> 9:8;11:8;12:4; 14:8,15;18:20;22:18; 34:18;37:15;40:19; 41:12;42:18;55:14, 15;57:15;66:21,23, 25;67:1;79:17;80:6, 7;81:6,6,10,11,12; 84:10,22;87:2;89:23; 91:2,10;92:4,18; 93:1,25;96:5;97:5,9, 13,22;98:11;99:3,7, 9;100:14;101:22,23, 25;103:14;104:21; 105:22,22,24;107:6; 108:11;110:11,12, 12;111:1;113:10; 120:21;121:20; 123:21;127:18; 128:5;132:19; 133:15,22;141:8; 142:8;145:6;146:24; 147:1;148:1,16 <b>T-shirt (9)</b> 14:3;15:12,19; 16:17,22;23:19;26:9; 32:1;53:4 <b>T-shirts (12)</b> 6:23;14:6,12,14; 15:5,20;16:24;24:8; 25:3;31:8;53:10,22 <b>tube (1)</b>	83:6 <b>tune (1)</b> 67:9 <b>turn (13)</b> 10:7;43:22;63:5,5; 100:20;109:14,25; 119:7,11;124:13; 149:19;150:7,9 <b>turned (1)</b> 50:4 <b>twice (1)</b> 140:25 <b>Two (15)</b> 6:6;20:19;28:1,4; 33:10;46:14;65:17; 68:16;76:1;85:22; 103:21;104:12; 129:25;160:1;164:2 <b>two-page (3)</b> 59:7;115:24;130:6 <b>tying (1)</b> 110:23 <b>type (19)</b> 16:3,10,23;35:13; 40:18;48:10;64:16; 69:1;74:23,23;99:6; 106:6;116:4,5; 127:16;142:14; 147:4,6;166:15 <b>typed (2)</b> 60:20;67:15 <b>types (2)</b> 43:5;52:12 <b>typical (1)</b> 154:12 <b>typing (1)</b> 60:22 <b>typographical (1)</b> 67:2
U				
<b>UC (2)</b> 159:1,8 <b>UCSB (1)</b> 159:10 <b>ultimate (1)</b> 145:21 <b>ultimately (1)</b> 85:14 <b>ultraviolet (4)</b> 65:7,23;66:4,18 <b>under (28)</b> 5:23;7:17;19:23; 23:1;24:7;31:9;44:4, 4,16;45:12;46:10,16; 47:4;51:3;61:25; 65:4;83:19;97:4; 98:23;108:5;109:2, 20;110:4;112:17; 113:2;124:7;126:10; 147:14 <b>underlying (1)</b>				

123:9 <b>understood (13)</b> 18:17;37:24; 40:24;43:12;65:19; 71:25;111:14; 134:21;139:17; 141:21;143:23; 153:8,18 <b>unfortunately (8)</b> 41:24;62:15,17; 86:4,21;88:19;89:11; 90:1 <b>uninformed (1)</b> 123:14 <b>unit (4)</b> 149:23,24;150:1, 24 <b>United (1)</b> 23:1 <b>universal (1)</b> 98:9 <b>universally (2)</b> 27:4;141:9 <b>universities (1)</b> 164:21 <b>University (2)</b> 163:23;164:3 <b>unless (4)</b> 26:25;65:1;73:9; 88:10 <b>unnecessarily (1)</b> 140:25 <b>unnecessary (8)</b> 73:23;106:8; 138:10,10;144:12; 153:1,5,8 <b>unrealistic (1)</b> 142:21 <b>unsatisfactory (1)</b> 100:8 <b>up (29)</b> 9:16;11:15;17:21; 18:20;46:8,13;50:4, 22;68:4,6,25;71:1; 72:3;74:2;89:1,24; 94:4;113:12,25; 114:10;115:11; 121:22;131:11; 133:23;156:7; 157:23;166:4,21; 167:2 <b>update (1)</b> 138:16 <b>updated (1)</b> 140:24 <b>updating (1)</b> 111:2 <b>upfront (1)</b> 93:16 <b>upon (8)</b> 48:23;108:15; 138:9;139:8;151:1,2; 152:8;167:11	<b>upper (1)</b> 9:17 <b>up-to-date (1)</b> 43:17 <b>USC (4)</b> 44:11;45:1;46:10, 17 <b>use (55)</b> 22:15,17;26:22; 27:1;34:19,21;37:19; 38:16,18;40:13;44:5, 8,8,19,22;46:18,24; 47:23;49:19,23;50:4; 54:22;55:10;57:10; 58:6;78:9;119:23; 120:9,12,18;121:18; 127:15;128:7,12,19; 129:15;130:5,12,15, 18,21;131:1,8,15,25; 132:10,18;133:18, 21;134:1,8,18,22; 138:24;144:16 <b>used (7)</b> 22:10;23:7;24:14; 37:3,5;41:5;118:11 <b>users (1)</b> 145:21 <b>uses (2)</b> 34:15;36:1 <b>using (17)</b> 23:10;24:10; 35:17;36:16;39:3,4; 47:18;82:17;98:6; 117:23;118:4,21; 119:4,19,22;128:7, 11 <b>V</b> <b>valid (1)</b> 134:19 <b>value (1)</b> 102:11 <b>variety (1)</b> 12:6 <b>vein (1)</b> 158:2 <b>venture (1)</b> 152:6 <b>verbally (1)</b> 6:8 <b>version (3)</b> 10:4;60:11,12 <b>versus (3)</b> 53:9;141:3;162:15 <b>viable (6)</b> 25:18;40:12;84:3; 137:25;141:22; 150:10 <b>Video (7)</b> 20:9;21:18;22:3,9, 12;23:2,25 <b>view (1)</b>	45:16 <b>viewpoint (3)</b> 77:7,14;91:25 <b>viewpoints (1)</b> 93:18 <b>virtually (1)</b> 149:11 <b>visible (1)</b> 158:10 <b>visions (1)</b> 146:17 <b>visualization (1)</b> 69:8 <b>visualize (3)</b> 52:24;69:2,4 <b>vocational (1)</b> 164:23 <b>volume (2)</b> 69:17;143:7 <b>W</b> <b>wage (1)</b> 88:20 <b>wait (1)</b> 26:11 <b>waiting (4)</b> 57:13;68:6;76:2; 127:2 <b>walk (1)</b> 49:24 <b>walked (1)</b> 48:12 <b>walk-through (1)</b> 47:25 <b>Wall (1)</b> 68:9 <b>wants (3)</b> 30:1,10;142:20 <b>warehouse (3)</b> 143:4,9,10 <b>Washington (1)</b> 128:16 <b>waste (8)</b> 9:10;38:22,23; 92:23;155:18,19,19; 156:9 <b>wasting (3)</b> 26:19;38:21;81:20 <b>water (1)</b> 136:16 <b>wavelength (1)</b> 66:17 <b>wavelengths (1)</b> 66:4 <b>Waves (47)</b> 16:21;18:7,12; 20:3;21:18;22:9; 23:17,18;25:21;26:8; 27:12;28:11,16;31:3, 10;32:2;34:25;54:23, 25;62:1;63:11,19; 64:15,17;74:19;	78:10,20;79:10;82:3, 6,14,18,20,23;83:19, 21,25;93:13;108:18; 111:20,21;115:24; 127:25;130:6; 132:16;135:19,20 <b>Waveworks (10)</b> 16:20;17:19;18:7, 12;20:3;25:21; 38:11;40:13;41:19; 42:9 <b>way (37)</b> 11:12;16:11;39:1; 56:10;61:15;62:20; 67:4;74:25;75:22; 77:14;80:19;89:6,7; 90:15,19;96:5,16; 103:20;106:17; 107:25;108:12; 109:7;111:5;119:7; 120:4;133:5;141:22; 144:11;146:24; 148:7;150:7;151:5,6, 7;152:2,12;165:18 <b>ways (2)</b> 11:10;155:23 <b>web (9)</b> 9:21;32:3;38:2; 39:2;45:10,15;48:5; 49:2;50:3 <b>week (6)</b> 18:19;36:8;49:6; 66:9;68:22;107:8 <b>weekends (2)</b> 86:10,11 <b>weigh (2)</b> 131:4,7 <b>weighed (1)</b> 134:21 <b>weight (2)</b> 69:16;131:7 <b>weren't (4)</b> 48:25;78:8; 123:10;125:7 <b>West (5)</b> 16:23;17:17;18:6, 10;25:2 <b>Westlaw (1)</b> 36:24 <b>What's (17)</b> 6:20;13:24;16:19; 18:22;90:19,22; 91:22;93:22;95:18; 106:22;117:3; 120:19;127:11; 134:11;143:7; 154:15;156:11 <b>whenever (1)</b> 48:19 <b>Whereupon (2)</b> 94:10;167:18 <b>whip (1)</b> 74:2	<b>whole (2)</b> 52:23;58:8 <b>wide (1)</b> 12:6 <b>widget (2)</b> 52:15,15 <b>willing (2)</b> 150:1,12 <b>window (1)</b> 131:25 <b>wish (3)</b> 33:14;68:22;149:5 <b>withholding (1)</b> 126:1 <b>within (9)</b> 21:13;22:1;61:21; 123:22;128:11; 130:22;134:24; 140:23;154:14 <b>without (3)</b> 24:2;33:18;90:10 <b>witness (4)</b> 5:8;59:10;78:15; 165:12 <b>woman (1)</b> 82:8 <b>wondering (1)</b> 92:14 <b>word (6)</b> 32:23;108:9; 128:21;129:21; 141:17,19 <b>word-of-mouth (1)</b> 150:18 <b>words (5)</b> 33:16;34:9;41:5; 89:18;113:10 <b>work (52)</b> 8:2;26:3;39:19; 54:24;55:16;65:13; 69:11;71:5;75:3; 81:25;82:15;84:6; 86:6,19,25;87:24; 88:1,6,12,15,18;89:4, 12,17,25;90:4,5,8; 91:9;96:22;97:2,16, 23;99:9;101:5; 122:3;123:8,15,19; 124:8;125:25; 131:12;133:1; 134:10,13,24; 160:11;163:21; 164:2,16,18;166:14 <b>worked (5)</b> 11:23;14:25; 82:23;135:21,24 <b>working (5)</b> 9:11;86:10; 123:20;162:11,12 <b>workload (1)</b> 25:11 <b>works (4)</b> 43:16;108:11;
---	--	--	--	--

153:8;167:12  
**work-week (1)**  
22:6  
**World (8)**  
20:9;21:18;22:3,8,  
12;23:2,24;49:4  
**worth (2)**  
151:14;156:8  
**wrapping (1)**  
157:23  
**write (2)**  
98:12;137:12  
**written (3)**  
69:3;137:11;  
151:15  
**wrong (3)**  
60:20;67:4;155:3

---

**Y**

---

**year (8)**  
7:13,13;49:7;  
75:25;107:9;141:5;  
160:2;161:13  
**years (35)**  
7:9,11;8:4;32:20;  
34:3;36:4,9,19;  
42:15;44:18;45:24;  
47:8;48:19,19;49:25;  
52:2;54:2;57:6,7;  
60:17;64:12,18,19;  
74:5;75:7,10;76:1;  
77:4;83:2,7;108:5;  
138:23;160:1;162:8,  
9  
**yellow (1)**  
25:5  
**yesterday (1)**  
36:8  
**young (1)**  
141:4